



Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

Ref: S&C: 17-15-LSC
REVISED: 10/26/2022

DATE: December 16, 2016

TO: State Survey Agency Directors

FROM: Director, Quality, Safety & Oversight Group (QSOG)

SUBJECT: Use of the Fire Safety Evaluation System (FSES), National Fire Protection Association (NFPA) 101A, Guide on Alternative Approaches to Life Safety, 2013 Edition by Health Care Occupancies and Board and Care Occupancies

Memorandum Summary

- **Fire Safety Requirements:** The Centers for Medicare and Medicaid Services (CMS) has adopted the 2012 Life Safety Code (LSC) and the 2012 Health Care Facilities Code (HCFC) through regulation (see 81 FR 26872, 5/4/16), effective July 5, 2016. *CMS has adopted changes through regulation to allow existing Medicare or Medicaid certified Nursing Facilities (NF)/Skilled Nursing Facilities (SNF) before July 5, 2016 that previously used the FSES for compliance, to use the scoring values in the mandatory values chart in NFPA 101, 2001 edition (see 87 CFR 47502, 8/3/22), effective October 1, 2022.*
- **FSES Edition to be USED to Meet Fire Safety Requirements:** If the FSES is being used to demonstrate compliance with the fire safety requirements, the version of the FSES for Health Care Occupancies and Board and Care Occupancies found in the 2013 edition of the Guide on Alternative Approaches to Life Safety, NFPA 101A must be used. A facility that achieves a passing score on the 2013 edition of the FSES will be considered to meet the fire safety requirement for certification and recertification with the Medicare and Medicaid programs. *If an existing NF/SNF had an approved FSES on record prior to July 5, 2016 the NF/SNF may use the mandatory values in NFPA 101A, 2001 edition, to meet the fire safety requirements for recertification.*
- **Survey Start Date:** CMS began surveying for compliance with the 2012 LSC and HCFC on November 1, 2016. Facilities may now use NFPA 101A, 2013 edition, of the FSES. *As of October 1, 2022, existing NF/SNF certified and with a previously approved FSES prior to July 5, 2016 may now use the mandatory values in NFPA 101A, 2001 edition.*
- **Time Limited Waiver for Corrective Action:** *Time limited waivers previously allowed for existing NF/SNF that had an FSES on record prior to July 5, 2016 are rescinded with the adoption of the FSES mandatory values in NFPA 101A, 2001 edition.*

Background:

The purpose of this memorandum is to notify the State Agencies (SA) and other stakeholders that CMS will be using NFPA 101A, Guide on Alternative Approached to Life Safety, 2013 edition (referred to here as 2013 FSES), as one method for determining LSC equivalencies . *In addition, CMS approved the use of the 2001 FSES Mandatory Values found in the 2001 edition of NFPA 101A for existing NF/SNF that were certified and had an approved FSES on record prior to July 5, 2016.*

Implementation:

As previously described in the Survey and Certification policy memorandum, S&C 16-29-LSC, CMS began surveying facilities for compliance with the 2012 edition of the LSC and HCFC on November 1, 2016. The time since the LSC rule's effective date and November 1, 2016 has allowed CMS the opportunity to train existing surveyors, revise fire safety survey forms, and update the Automated Survey Processing Environment (ASPEN) program.

Effective October 1, 2022 CMS adopted the 2001 FSES Mandatory Values in order to allow existing NF/SNF that were certified and had an FSES on record prior to July 5, 2016 to meet the fire safety requirements for recertification.

For facilities that do not meet the prescriptive fire safety requirements of the 2012 LSC, they may use the 2013 FSES to achieve compliance with the Medicare and Medicaid fire safety requirements. The use of the FSES in this manner is not new, but CMS is updating which version of the FSES is to be used to demonstrate this equivalency. The FSES can be completed by the facility, a trained consultant, or by the SA at their discretion.

The 2013 FSES that is submitted by the facility for review to the SA, which then sends it to the *CMS Location* for final approval as part of the plan of correction (POC), must use the most recent annual LSC prescriptive survey of the facility completed by the SA as the basis of the FSES. A new FSES must be completed and submitted for review and approval each time the annual prescriptive LSC survey is completed by the SA and deficiencies are identified by the survey. This is to ensure that any deficiencies found on the survey are accounted for on the FSES and submitted as part of the facility's POC.

In the case of an *existing NF/SNF that was certified and had an approved FSES on record prior to July 5, 2016 the NF/SNF may use the FSES mandatory values found in the 2001 edition of NFPA 101A to meet the fire safety requirements for recertification. Time limited waivers for existing NF/SNF are no longer required with the adoption of the 2001 FSES mandatory values. The FSES mandatory values for existing NF/SNF from NFPA 101, 2001 edition, are annotated below in Table 1. Mandatory Values— Existing Nursing Homes/Long- Term Care Facilities.*

Table 1. Mandatory Values— Existing Nursing Homes/Long-Term Care Facilities

	Containment (Sa)		Extinguishment (Sb)		People Movement (Sc)	
	New	Exist.	New	Exist.	New	Exist.
Zone Location						
1 st story	11	5	15(12)*	4	8(5)*	1
2 nd or 3 rd story **	15	9	17(14)*	6	10(7)*	3
4 th story or higher	18	9	19(16)*	6	11(8)*	3

** Use () in zones that do not contain patient sleeping rooms.*

Contact: If you have questions concerning this memorandum, please send them to SCG_LifeSafetyCode@cms.hhs.gov.

Effective Date: Immediately. The information provided in this memorandum should be communicated with all survey and certification staff, their managers, and the State/*CMS Location* Office training coordinators within 30 days of the date of this memorandum.

/s/

David R. Wright
Director, Quality, Safety & Oversight Group

cc: *Survey Operations Group Management*