

September 23, 2013

DAL#: DAL 13-18
Subject: Revised Equivalency List

Dear Adult Care Facility Operator:

The purpose of this letter is to inform Adult Care Facility (ACF) Operators and Administrators that the equivalency list has been revised to include the following three items:

I. Facilities lacking sprinklers in resident bathrooms and clothes closets. This equivalency is based on Title 10 NYCRR 1001.13(e) – Alternate method of assuring resident welfare and safety in existing building seeking to be licensed as an Enhanced and/or Special Needs Assisted Living Residence, but lack sprinklers in bathrooms and clothes closets in resident rooms or dwellings. This equivalency applies to buildings licensed as an Adult Care Facility (Adult Home, Enriched Housing Program or Assisted Living Program) prior to the effective date of the Assisted Living Residence Regulations Title 10 NYCRR Part 1001, on March 26, 2008. National Fire Protection Association Standard No. 13 (NFPA 13) has the stated purpose to protect lives and property. NFPA 13R has the stated purpose to primarily protect lives with a reasonable degree of property protection. Whereas protecting property is a worthwhile goal, particularly for building owners and insurance companies, protecting lives should be the primary goal for state licensing agencies.

Please note that the following conditions must be met in order to comply with the new equivalency:

- Applies to buildings licensed as an Adult Care Facility (Adult Home, Enriched Housing Program or Assisted Living Program) prior to the effective date of the Assisted Living Residence regulations Title 10 NYCRR part 1001 on March 26, 2008.
- An automatic sprinkler system that is comparable or equivalent to NFPA 13.
- Bathrooms and clothes closets shall have walls and ceilings sheathed with gypsum board or other noncombustible material that has a minimum 15-minute thermal barrier rating.
- Clothes closets shall be limited to storing only clothing, shoes and other wardrobe items.
- At least an 18-inch clearance shall be maintained below the smoke detector.
- Closets and bathrooms used to store combustible material or flammable items and equipment such as: oxygen tanks and concentrators, hot water heaters, washers and dryers, heating and electrical equipment and panels, etc., **are not included in this equivalency and must be protected with automatic sprinklers in accordance with NFPA 13.**

- In lieu of sprinklers, a clothes closet with 24 square feet or less, or a bathroom with 55 square feet or less, shall be provided with a smoke detector. The smoke detector shall be addressable and interconnected into the existing system either hardwired or wireless. A heat detector may be installed in lieu of a smoke detector in bathrooms where excessive humidity may cause incidents of false alarm and become a nuisance. The alternative smoke/heat detectors shall be inspected and monitored in accordance with manufacturer's recommendations and documented for review by New York State Department of Health (NYS DOH) surveillance staff.
- The applicant shall document that construction required to retrofit and install additional sprinkler heads in resident bathrooms and clothes closets would result in financial hardship; and be highly disruptive to residents.
- The applicant shall provide a reasonable time frame to complete the work required to come into compliance with the alternative method to achieve equivalency as specified herein.
- The applicant shall document that their compliance record is in good standing.

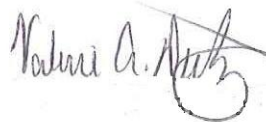
II. Oxygen refill system. Previously, the only oxygen refill system that allowed residents to fill their oxygen cylinders from an oxygen concentrator was the Invacare HomeFill II Oxygen System. The NYS DOH has expanded its approval to any oxygen refill system as long as the system meets all the conditions of the existing equivalency.

III. Annual provision of influenza and pneumococcal immunizations to residents and employees of adult care facilities. Providers indicated trouble accessing the website address provided in the equivalency. The website has been updated.

When an Operator chooses to adopt an approved equivalency or request an alternative method of complying with a regulation, the Operator must submit a completed Waiver Request/Equivalency Notification form (DOH-4235) to the respective Regional Office.

If you have any questions related to the new or revised additions to the equivalencies, please contact the Program Manager in your Regional Office.

Sincerely,



Valerie A. Deetz, Director
Division of Assisted Living and ACF Surveillance

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