

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-10-08-ESRD

DATE: November 20, 2009

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Phasing Implementation of Life Safety Code (LSC) Surveys in End Stage Renal Disease (ESRD) Facilities for Calendar Year (CY) 2010

Memorandum Summary

- **Phasing In LSC Surveys for ESRD facilities:** LSC surveys are being phased into the ESRD survey program in two phases.
- **Phase I: New Facilities and Complaints:** Phase I includes the implementation of initial surveys for “new” facilities, relocation surveys for existing facilities which move to a “new” location, and complaint surveys that include allegations related to LSC requirements.
- **Phase II: Existing ESRD Facilities:** LSC surveys for existing ESRD facilities will be implemented following the development of Interpretive Guidance specific to those surveys, an ESRD/LSC Survey Protocol, and a specific Training Module for ESRD/LSC.

Background

The previous ESRD regulations, in effect for more than 30 years, did not include LSC provisions. Minimum fire safety provisions were included in the former regulations. However, during those years ESRD facilities were built and remodeled under the aegis of local building codes, and those local building codes required compliance with the Uniform Fire Codes developed by the International Code Council. In some local jurisdictions, building codes also required compliance with an Edition of the National Fire Protection Association’s (NFPA) LSC.

Over 5,000 existing ESRD facilities have been certified under the old ESRD regulations using fire codes related to building codes and, in some instances, an Edition of the LSC. While the new ESRD regulations incorporated by reference the NFPA 2000 Edition of the LSC, some ESRD facilities have been built and operated under various Editions of the NFPA’s LSC. The existing ESRD facilities are also operating under fire codes related to their local jurisdiction’s building codes.

The regulatory change of code systems to NFPA's 2000 Edition of LSC represents a significant change for ESRD facilities. We are currently analyzing the steps necessary for full and effective implementation of the NFPA's 2000 Edition of the LSC. In order to accomplish this transition, we are phasing in the implementation of the LSC surveys for ESRD facilities in two phases:

- (a) New facilities or complaints involving LSC in existing facilities; and
- (b) Existing facilities.

Our goal is to have a LSC survey process that is consistent, appropriate, and outcome-oriented. During the first phase of implementation, we are limiting LSC surveys to those for "new" facilities (initials and relocations) and for those facilities where we receive a LSC complaint allegation.

(a) LSC Surveys for "New" Facilities (Initials and Relocations)

At the current time, LSC surveys for the following entities are required:

- Initial surveys for "new" ESRD facilities, with "new" being defined by regulation as those facilities that have received approval of building permits or plan reviews after February 9, 2009.
- Relocation surveys for an existing facility in a "new" location that has received approval of its building permits or plan reviews after February 9, 2009.
- Complaints that include allegations related to LSC requirements.

When a LSC survey is required for the Initial certification of a "new" facility, we ask that every attempt is made to conduct Initial ESRD/LSC surveys as close in time as possible to the dates of the Initial ESRD/Health & Safety survey.

(b) LSC Surveys for "Existing" Facilities

"Existing" facilities, i.e., facilities that have received approval of their building permits or plan reviews on or before February 9, 2009, should not be scheduled for a LSC survey as a part of their national certification at this time. LSC surveys for "existing" facilities are scheduled to begin in December 2010. We will communicate more details for this second phase of implementation (LSC surveys for "existing" facilities) through a Survey and Certification Memorandum as we approach December 2010. If States have conducted "Initial" LSC surveys for "existing" facilities, the certification date for reimbursement for those "existing" facilities should be based upon the successful completion of the Initial Health and Safety survey, without regard to the date of the LSC survey conducted. To accommodate these current survey processes, the entry of LSC codes in ASPEN is currently optional.

Promoting Consistency in Interpretation of LSC Rules

In order to promote consistency and decrease ambiguities in interpretation of the 2000 Edition of the NFPA LSC, we plan to conduct an Inventory of Issues that we should address in surveying ESRD facilities using the 2000 Edition of NFPA LSC. We ask that surveyors, fire safety experts, ESRD providers, and other interested individuals submit issues regarding interpretation and implementation of the 2000 Edition of the NFPA LSC for ESRD facilities to the following CMS mailbox: ESRDSurvey@cms.hhs.gov by January 4, 2010.

In addition to submitting issues, we invite surveyors and providers to address questions about the ESRD/LSC process to the same CMS mailbox on an ongoing basis. Questions to this mailbox will be addressed in a timely manner, and questions will be published on a regular basis as a part of the ESRD Frequently Asked Questions (FAQs) releases.

We recognize that both CMS surveyors and ESRD providers need to be mutually informed about the details of the ESRD/LSC survey process. We will provide the following survey tools prior to implementation of these surveys on a routine basis:

- LSC “K” tags will be incorporated into the ASPEN 9.5 version in November 2009;
- Interpretive Guidance will be developed for ESRD/LSC survey, using the 2000 Edition of the NFPA LSC; and
- A specific training module for ESRD/LSC surveyors will be developed.

ESRD/LSC Surveyor Qualifications

To qualify to survey an ESRD facility for LSC, the surveyor must, at a minimum, successfully complete the Principles of Documentation course online; observe a LSC survey; and successfully complete either a CMS online LSC course or attend the Basic LSC training course. Both of these courses will have added content specific to the ESRD/LSC component.

Please address questions and comments about this memorandum to Judith Kari at judith.kari@cms.hhs.gov or James Merrill at james.merrill@cms.hhs.gov or Martin Casey at martin.casey@cms.hhs.gov.

Effective Date: The information contained in this memorandum is current policy and is in effect for all ESRD facilities. The State Agency should disseminate this information within 30 days of the date of this memorandum.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management