There are times when certain provisions of the NFPA 101® Life Safety Code® might not be met. The Centers for Medicare & Medicaid Services has a “waiver” process per 42 CFR 483.70(a) (2) specifying that a waiver may be granted where it would not adversely affect resident health and safety (while a reasonable degree of fire safety is being provided) and it would impose an “unreasonable hardship” on the facility to meet specific LSC provisions. When it is not readily practical for a health care facility to comply fully with all of the specific requirements of the LSC, the fire authorities having jurisdiction (AHJs) may evaluate the degree of enforcement necessary to provide a reasonable measure of safety and an equivalent degree of protection.

The NFPA 101 is the code for safety to life from fire in buildings and structures. The basic requirement for facilities participating in the Medicare and Medicaid programs is compliance with the 2000 edition of the LSC. This edition is also referenced by the various hospital-accrediting bodies granted deeming authority and recognized by CMS such as The Joint Commission (TJC), American Osteopathic Association (AOA), and Det Norske Veritas Healthcare (DNVHC), as well as many local and state fire marshals across the country.

The LSC provides that the AHJ shall determine the adequacy of protection provided for life safety from fire in accordance with the provisions of the LSC. While the State Survey Agency’s (SA) Life Safety Code surveyor may recommend waivers, only CMS Regional Offices (ROs) can grant the waivers. Facilities with waivers of the health occupancy provisions of the LSC or with an acceptable Plan of Correction are considered “in compliance” by CMS.

In making a decision to grant a waiver, CMS considers whether the “intent” of the LSC is met. The requirements of the LSC are directed to a series of factors or areas such as:

1. Fire Load
2. Fire Containment
3. Fire Extinguishment
4. Evacuation
5. Operating Features
6. Staffing considerations such as staff-patient ratios, staffing patterns, and scope of staff training to handle fire emergencies;
7. Availability and adequacy of compartment and horizontal exits, such as areas to hold patients during a fire emergency;
8. Location and number of ambulatory and nonambulatory patients;
9. Availability, extent, and type of automatic fire detection and fire extinguishment systems provided in the facility;
10. Means for notifying the fire department in case of fire; and,
11. Effectiveness of fire department (e.g., types of equipment available; number of personnel normally responding to a fire call; distance to the nearest fire station; and normal response time of the fire department).

The following should also be considered and evaluated by the fire AHJ:

The total fire safety of a building is dependent upon the combined effects of the above listed factors. Each building is unique from a fire safety viewpoint and should be evaluated by the fire AHJ(s) on its own merits. Not all requirements are of equal importance in all situations. If it can be established that a particular LSC deficiency does not materially affect the overall level of life safety, it is reasonable to hold that the fire safety characteristics
Continuous compliance with The Joint Commission standards helps accredited organizations maintain safe and functional environments for patients, visitors and staff and maintain/improve safe, quality patient care.

What are the possible ramifications of not being continuously prepared and ready for survey, and what difficulties lay therein?

1. Loss of accreditation resulting in loss of deemed status
2. Loss of Medicare reimbursements due to loss of accreditation
3. Potential reduction in staff, services, quality of patient care, and a less safe environment due to loss of Medicare reimbursements
4. Cessation of services or possible closure of hospital due to loss of Medicare reimbursements

What are some of the matters or issues that could lead to loss of accreditation?

- Inoperable fire alarm or pump without fire watch or interim life safety measures (ILSM)
- Emergency generator down for an extended period without backup
- Lack of master alarms for medical gas systems
- Failure to maintain or significantly compromised fire alarm system; sprinkler system; emergency power system; medical gas master panel; exits.

Being found out of compliance with a standard’s elements of performance (EPs) designated under Situational Decision Rules (SDRs) and/or with Accreditation with Follow-Up Survey Rule AFS 13.

- Failure to implement corrective action(s) in response to identified Life Safety Code deficiencies
- Lack of a written interim life safety measure (ILSM) policy
- Failure to make sufficient progress toward the corrective actions described in a previously accepted Statement of Conditions™ (SOC) Plan for Improvement (PFI)

Please note that an LSC waiver granted by CMS for any Life Safety Code deficiencies may not necessarily be accepted by your accrediting organization(s) such as TJC, DNV, or the AOA. Conversely, LSC "equivalencies" granted by an accrediting body, such as The Joint Commission and its "equivalency processes," may not necessarily be accepted or recognized by CMS. When requesting a Life Safety Code waiver from CMS for any LSC deficiencies, it is recommended to also submit an equivalency request to your accrediting organization (per their specific requirements) and vice versa.

For additional information on CMS’s Life Safety Code Waiver process, please go to: http://www.cms.gov/CertificationandCompliance/11_LSC.asp or contact your CMS Regional Office.
The hardest part of continuous compliance can be summarized as having to do more and more with less and less. All too often facility managers are being asked and forced to work with limited or reduced resources, e.g., budgets, staff, equipment, materials, supplies, etc. At the same time, TJC, CMS, and local and state authorities having jurisdiction (AHJs) are seemingly in an ongoing race to change and all too often add further requirements to their current regulations, codes, and standards.

You must know the rules (standards and scoring) or possibly lose the game (accreditation). Over the past several years there has been a turnover of personnel who in the past were responsible for maintaining compliance with the myriad of codes and standards. Their replacements have a steep learning curve that may best be accomplished via on-the-job (OTJ) training; reading and familiarizing themselves with the various codes and standards, especially the appropriate chapters of TJC’s accreditation manual; attending educational seminars, webinars, audio conferences; subscribing to reputable newsletters; joining organizations such as the American Society for Healthcare Engineering (ASHE); joining their state hospital engineering society; and inviting experienced consultants in who have the necessary expertise to provide on-site mentoring.

Finally, a few tips on being prepared for your next survey and continuous compliance despite any dwindling resources:

• Obtain the most current TJC accreditation manual and review the chapters for which you are responsible
• Highlight Direct Impact Requirement EPs
• Highlight Situational Decision Rule EPs
• Ensure policies and procedures are in place
• Ensure management plans are in place
• Ensure P&Ps and management plans are implemented and enforced
• Ensure minutes of meetings, risk assessments, records, logs, manifests, and performance indicators are up-to-date and accurate
• Ensure applicable staff training is provided
• Conduct your own mock surveys, tours, and tracers periodically

PFI EXTENSION REQUESTS

By Dean Samet, CHSP dsamet@ssr-inc.com

The Joint Commission allows organizations to exceed their electronic Statement of Conditions™ (eSOC) Plan for Improvement (PFI) “projected completion date” by up to six months on previously accepted or original PFIs without any penalty. However, once that PFI has been accepted by TJC, the organization can further request a one-time extension when it appears that they are going to exceed their projected completion date(s).

The following information is required to be provided:

• Original and proposed projected completion date(s)
• Brief description of the deficiency or deficiencies
• Reason(s) for the extension request
• Confirmation that the extended PFI will be given a high priority for completion

(Continued on page 4)
PFI extension requests are to be submitted to TJC’s Standards Interpretation Group (SIG) engineers for their consideration via The Joint Commission Online Standards Submission Form found at: http://jcwebnoc.jcaho.org/newsigsub/sigonlineform.aspx. This form is also available in the electronic Statement of Conditions™ PFI menu under “Requests for Extension and Equivalencies.” SIG engineers will post an acceptance or denial of the PFI extension request on the organization’s eSOC under the PFI menu “History Audit Trail.” If and when an extension is granted, SIG engineers will enter the organization’s eSOC/PFI and modify the projected completion date(s) and any revised actions as necessary. They will also send a “courtesy” e-mail to the contact person identified in the eSOC.

TJC surveyors look for “sufficient progress” in completing PFI items at the time of survey. Failure to make sufficient progress toward corrective actions described in the approved PFI (previously accepted; original; or accepted extension) will most likely result in a recommendation of Accreditation with Follow-up Survey per rule AFS13, “The hospital has failed to implement or make sufficient progress toward the corrective actions described in a Statement of Conditions™, Part 4, Plan for Improvement, which was previously accepted by The Joint Commission, or has failed to implement or enforce applicable interim life safety measures.”

We wish all our readers a joyous holiday and a happy and healthy new year!

Look for your next issue of Compliance News in February 2012.

PUBLICATIONS AND SEMINARS

Publications
“Fire Procedures,” Facility Care, October 2011

Seminars
May 2012 Texas Association for Healthcare Facilities Management (TAHFM) Interlink, Arlington, TX, “NFPA 110/111 Update”