

42 CFR 483.70

This section is current through the March 20, 2014 issue of the Federal Register

Code of Federal Regulations > TITLE 42-- PUBLIC HEALTH > CHAPTER IV-- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES > SUBCHAPTER G-- STANDARDS AND CERTIFICATION > PART 483-- REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES > SUBPART B-- REQUIREMENTS FOR LONG TERM CARE FACILITIES

§ 483.70 Physical environment.

The facility must be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel and the public.

(a) Life safety from fire.

(1) Except as otherwise provided in this section --

(i) The facility must meet the applicable provisions of the 2000 edition of the Life Safety Code of the National Fire Protection Association. The Director of the Office of the Federal Register has approved the NFPA 101[supreg] 2000 edition of the Life Safety Code, issued January 14, 2000, for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

<http://www.archives.gov/federal/register/codeof/federal/regulations/ibr/locations.htm>
1. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. If any changes in this edition of the Code are incorporated by reference, CMS will publish notice in the Federal Register to announce the changes.

(ii) Chapter 19.3.6.3.2, exception number 2 of the adopted edition of the LSC does not apply to long-term care facilities.

(2) After consideration of State survey agency findings, CMS may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of the patients.

(3) The provisions of the Life safety Code do not apply in a State where CMS finds, in accordance with applicable provisions of sections 1819(d)(2)(B)(ii) and 1919(d)(2)(B)(ii) of the Act, that a fire and safety code imposed by State law adequately protects patients, residents and personnel in long term care facilities.

(4) Beginning March 13, 2006, a long-term care facility must be in compliance with Chapter 19.2.9, Emergency Lighting.

(5) Beginning March 13, 2006, Chapter 19.3.6.3.2, exception number 2 does not apply to long-term care facilities.

(6) Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a long-term care facility may install alcohol-based hand rub dispensers in its facility if --

- (i) Use of alcohol-based hand rub dispensers does not conflict with any State or local codes that prohibit or otherwise restrict the placement of alcohol-based hand rub dispensers in health care facilities;
 - (ii) The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;
 - (iii) The dispensers are installed in a manner that adequately protects against inappropriate access;
 - (iv) The dispensers are installed in accordance with chapter 18.3.2.7 or chapter 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004. The Director of the Office of the Federal Register has approved NFPA Temporary Interim Amendment 00-1(101) for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the amendment is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD and at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269; and
 - (v) The dispensers are maintained in accordance with dispenser manufacturer guidelines.
- (7) A long term care facility must:
- (i) Install, at least, battery-operated single station smoke alarms in accordance with the manufacturer's recommendations in resident sleeping rooms and common areas.
 - (ii) Have a program for inspection, testing, maintenance, and battery replacement that conforms to the manufacturer's recommendations and that verifies correct operation of the smoke alarms.
 - (iii) Exception:
 - (A) The facility has system-based smoke detectors in patient rooms and common areas that are installed, tested, and maintained in accordance with NFPA 72, National Fire Alarm Code, for system-based smoke detectors; or
 - (B) The facility is fully sprinklered in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems.
- (8) A long term care facility must:
- (i) Install an approved, supervised automatic sprinkler system in accordance with the 1999 edition of NFPA 13, Standard for the Installation of Sprinkler Systems, as incorporated by reference, throughout the building by August 13, 2013. The Director of the Office of the Federal Register has approved the NFPA 13 1999 edition of the Standard for the Installation of Sprinkler Systems, issued July 22, 1999 for incorporation by reference in accordance with 5 U.S.C.

552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

<http://www.archives.gov/federal/register/code/of/federal/regulations/ibr/locations.htm>

1. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269.

- (ii) Test, inspect, and maintain an approved, supervised automatic sprinkler system in accordance with the 1998 edition of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, as incorporated by reference. The Director of the Office of the Federal Register has approved the NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 1998 edition, issued January 16, 1998 for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:
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1. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269.

(b) Emergency power.

- (1) An emergency electrical power system must supply power adequate at least for lighting all entrances and exits; equipment to maintain the fire detection, alarm, and extinguishing systems; and life support systems in the event the normal electrical supply is interrupted.
- (2) When life support systems are used, the facility must provide emergency electrical power with an emergency generator (as defined in NFPA 99, Health Care Facilities) that is located on the premises.

(c) Space and equipment. The facility must --

- (1) Provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by these standards and as identified in each resident's plan of care; and
- (2) Maintain all essential mechanical, electrical, and patient care equipment in safe operating condition.

(d) Resident rooms. Resident rooms must be designed and equipped for adequate nursing care, comfort, and privacy of residents.

(1) Bedrooms must --

- (i) Accommodate no more than four residents;
- (ii) Measure at least 80 square feet per resident in multiple resident bedrooms, and at least 100 square feet in single resident rooms;
- (iii) Have direct access to an exit corridor;

- (iv) Be designed or equipped to assure full visual privacy for each resident;
 - (v) In facilities initially certified after March 31, 1992, except in private rooms, each bed must have ceiling suspended curtains, which extend around the bed to provide total visual privacy in combination with adjacent walls and curtains;
 - (vi) Have at least one window to the outside; and
 - (vii) Have a floor at or above grade level.
- (2) The facility must provide each resident with --
 - (i) A separate bed of proper size and height for the convenience of the resident;
 - (ii) A clean, comfortable mattress;
 - (iii) Bedding appropriate to the weather and climate; and
 - (iv) Functional furniture appropriate to the resident's needs, and individual closet space in the resident's bedroom with clothes racks and shelves accessible to the resident.
- (3) CMS, or in the case of a nursing facility the survey agency, may permit variations in requirements specified in paragraphs (d)(1) (i) and (ii) of this section relating to rooms in individual cases when the facility demonstrates in writing that the variations --
 - (i) Are in accordance with the special needs of the residents; and
 - (ii) Will not adversely affect residents' health and safety.
- (e) Toilet facilities. Each resident room must be equipped with or located near toilet and bathing facilities.
- (f) Resident call system. The nurse's station must be equipped to receive resident calls through a communication system from --
 - (1) Resident rooms; and
 - (2) Toilet and bathing facilities.
- (g) Dining and resident activities. The facility must provide one or more rooms designated for resident dining and activities. These rooms must --
 - (1) Be well lighted;
 - (2) Be well ventilated, with nonsmoking areas identified;
 - (3) Be adequately furnished; and
 - (4) Have sufficient space to accommodate all activities.
- (h) Other environmental conditions. The facility must provide a safe, functional, sanitary, and comfortable environment for the residents, staff and the public. The facility must --
 - (1) Establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply;
 - (2) Have adequate outside ventilation by means of windows, or mechanical ventilation, or a combination of the two;

- (3) Equip corridors with firmly secured handrails on each side; and
- (4) Maintain an effective pest control program so that the facility is free of pests and rodents.

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| Statutory Authority |
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AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

Secs. 1102, 1128I and 1871 of the Social Security Act ([42 U.S.C. 1302](#), 1320a-7j, and 1395hh).

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| History |
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[56 FR 48876, Sept. 26, 1991, as amended at [57 FR 43925](#), Sept. 23, 1992; [68 FR 1374, 1386](#), Jan. 10, 2003; [69 FR 48916, 49268](#), Aug. 11, 2004; [70 FR 15229, 15238](#), Mar. 25, 2005, as confirmed and amended at [71 FR 55326, 55339, 55340](#), Sept. 22, 2006; [73 FR 47075, 47091](#), Aug. 13, 2008]

Annotations

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| Notes |
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[EFFECTIVE DATE NOTE:

[73 FR 47075, 47091](#), Aug. 13, 2008, added paragraph (a)(8), effective Oct. 14, 2008.]

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| Case Notes |
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LexisNexis® Notes

Case Notes Applicable to Entire Part

Healthcare Law : Business Administration & Organization : Judicial Review : Substantial Evidence
 Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :
 Public Health & Welfare Law : Housing & Public Buildings : Accessibility, Construction & Design
 Public Health & Welfare Law : Social Security : Medicaid : Providers : Types : Nursing Facilities
 Public Health & Welfare Law : Social Security : Medicare : General Overview
 Public Health & Welfare Law : Social Security : Medicare : Providers : Types : Nursing Facilities

Case Notes Applicable to Entire Part[Part Note](#)**Healthcare Law : Business Administration & Organization : Judicial Review : Substantial Evidence**

[Emerald Shores Health Care Assocs. v. United States HHS, 545 F.3d 1292, 2008 U.S. App. LEXIS 21979](#) (11th Cir Oct. 22, 2008).

Overview: Program skilled nursing facility had in place substantially complied with requirements of pest and rodent regulation, [42 C.F.R. § 483.70\(h\)\(4\)](#), at least insofar as facility would have reasonably understood them at time. Facility had not previously been cited, though there had been past incidents involving ants on premises.

- Long-term care facilities participating in Medicare and Medicaid must maintain an effective pest control program so that the facility is free of pests and rodents. [42 C.F.R. § 483.70\(h\)\(4\)](#). A court's review of a decision of the Departmental Appeals Board (DAB) for the United States Department of Health and Human Services (DHHS) thus involves two separate inquiries: what would constitute an "effective" program and whether there is substantial evidence supporting a determination that a facility failed to meet this standard. The Centers for Medicare and Medicaid Services (CMS) and the DHHS do not require facilities to adopt any particular program and have offered very little guidance about the standards for assessing effectiveness. In the absence of any detailed elaboration of the regulatory requirements, it is appropriate to assess the DAB's evidence of noncompliance in light of what the facility would have reasonably expected it was required to do. In making this evaluation, it is relevant to consider DAB decisions and official CMS/DHHS publications as well as those agencies' past interactions with and directions to the facility. *Go To Headnote*

Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

[Sunset Manor, Inc. v. United States HHS, 2009 U.S. App. LEXIS 4360](#) (10th Cir Feb. 27, 2009).

Overview: *A civil penalty for a violation of [42 C.F.R. § 483.70](#) was affirmed because a skilled-nursing facility had to do more than merely install a fire alarm system; it needed to see that the system and protocols operated to achieve their intended purpose of insuring resident safety. Such a requirement was a reasonable interpretation of § 483.80.*

- A Medicare participant's facility must be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel and the public. [42 C.F.R. § 483.70](#). With regard to fire safety, § 483.70(a)(1)(i) states the facility must meet the applicable provisions of the 2000 edition of the Life Safety Code of the National Fire Protection Association (NFPA). In turn, § 9.6.4 of the Life Safety Code (LSC) incorporates NFPA 72, National Fire Alarm Code regarding alarm systems to alert the municipal fire department of fire or other emergency. For facilities that have chosen a central station alarm system, § 5-2.6.1.1 of the National Fire Alarm Code, NFPA 72 (1999 ed.) (NFAC) provides the central station must immediately retransmit the alarm to the public fire service communications center. And NFAC Appendix § A-5-2.6.1.1(1) states the term "immediately" means without unreasonable delay, and that routine handling should take a maximum of 90 seconds from receipt of an alarm signal by the central station until the initiation of retransmission to the public fire service communications center. *Go To Headnote*

Public Health & Welfare Law : Housing & Public Buildings : Accessibility, Construction & Design

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Public Health & Welfare Law : Social Security : Medicaid : Providers : Types : Nursing Facilities

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Public Health & Welfare Law : Social Security : Medicare : General Overview

[Asbury Ctr. v. United States HHS, 2003 U.S. App. LEXIS 20335 \(6th Cir Oct. 2, 2003\) \(Unpublished\).](#)

Overview: *Government's imposition of civil penalties against a Medicare-certified residential nursing facility was affirmed where the facility's lack of compliance with federal regulations contributed to the death of an unmonitored resident.*

- Medicare's physical environment requirement demands that a facility maintain all essential mechanical, electrical, and patient care equipment in safe operating condition. [42 C.F.R. § 483.70\(c\)\(2\)](#). [Go To Headnote](#)

Public Health & Welfare Law : Social Security : Medicare : Providers : Types : Nursing Facilities

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NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at 45 FR 53806, Aug. 13, 1980; 50 FR 12741, Mar. 29, 1985; 50 FR 33034, Aug. 16, 1985; 51 FR 41338, Nov. 14, 1986; 53 FR 6634, Mar. 2, 1988; 53 FR 47201, Nov. 22, 1988; 56 FR 8852, Mar. 1, 1991; 66 FR 39450, 39452, July 31, 2001; 67 FR 36539, 36540, May 24, 2002; 77 FR 29002, 29028, May 16, 2012.]

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