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Navigating 1135 Waivers Affecting Life Safety Compliance

Since the on-set of the pandemic, CMS has slowly dripped a number of blanket 1135 waivers related to a variety of provider types including nursing homes. Many states have been following the guidance and intent of the waivers and even applying the general concepts to Assisted Living occupancies. It is important to recognize how the waivers directly relate to life safety and Life Safety Code® compliance.

First off, CMS has waived the need to meet many of the prescriptive inspection, testing and maintenance (ITM) requirements and frequencies that are outlined in the Life Safety Code® (NFPA 101) and the Health Care Facilities Code® (NFPA 99). These codes reference other codes and standards that specifically address items such as fire alarm, sprinkler, standpipe, fire extinguishers, elevators, generators, etc. Therefore, you have relief around the activities and frequencies for a myriad of ITM requirements with a handful of very specific exceptions:

- Fire pumps must be tested (monthly if electric, weekly if diesel)
- Fire extinguishers must be inspected monthly
- The firefighter emergency operation on elevators must be tested monthly
- Emergency generators must be run for 30 minutes monthly and transfer switches tested
- Where under construction or renovation, all means of egress must be inspected daily.

Another item with some minor relaxation of the prescriptive code requirements relates to Alcohol Based Hand Rub Dispensers (ABHR). In this area, there has been some confusion around what the 1135 waiver is truly permitting. It is only relaxing some of the requirements around the placement of the ABHR dispensers. For example, how far apart they need to be or how close they can be to an outlet or light switch. The waiver does not affect the storage requirements that are based upon quantity.

Finally, more recently after a great deal of lobbying, CMS included some relief for fire drills as part of the 1135 waivers. The waiver indicates that rather than conducting a traditional fire drill that usually includes the movement and gathering of staff and sometimes residents, CMS will permit a documented staff orientation program that includes the following components:

- Review of the current fire procedures
- Review of key staff responsibilities during a fire
- The location of fire protection devices located in each staff members normal work area

There is no prescriptive guidance on what the training must look like or how it is delivered. However, CMS is clear that all existing, new and even temporary or contract staff must be included.

You can find all the updated 1135 Waiver information at the following link:

<https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>