

CMS Proposes New Fire Safety Regulations for Hospitals

On April 14, 2014, the *Centers for Medicare & Medicaid Services* (CMS) announced a proposed rule regarding the adoption of the 2012 edition of the *Life Safety Code (LSC)* and *Health Care Facilities Code (HCFC)*, which contains key updates regarding fire safety regulations for all Medicare and Medicaid participating hospitals; long term care facilities (LTC); critical access hospitals (CAH); ambulatory surgical centers (ASC); and, other facilities.¹ CMS asserts that the adoption of these building codes will ease compliance across facilities, as both the LSC and HCFC are aligned with international building codes.² These code updates are particularly important for hospitals, as they contain new requirements for: (1) sprinkler systems; (2) fire watch requirements; (3) patient suite sizes; and, (4) door locking, among others.³

The LSC did not previously require hospital facilities having four or more patients on an inpatient basis to comply with these codes; however, CMS eliminated this exception, noting that patients in any hospital setting should be afforded the same safety protections.⁴ As such, all of the following provisions apply to any hospital, regardless of its size. Due to the increased time required to evacuate high-rise buildings, CMS will require hospitals over 75 feet tall to install automatic sprinkler systems, over a period of 12 years from the date of implementation of CMS's final rule.⁵ CMS anticipates that this sprinkler installation will give individuals additional time to safely evacuate high-rise hospital facilities.⁶ CMS estimates that this sprinkler installation requirement will cost hospitals that are already "*partially-sprinklered*" approximately \$34,075 per year, over the proposed 12 year implementation period.⁷ For hospitals that are not "*sprinklered*," CMS estimates that the sprinkler installation requirement will cost approximately \$117,028 per year, over the proposed 12 year implementation period.⁸ In addition to the foregoing sprinkler requirements, hospitals must be (1) evacuated; or, (2) a fire watch must be established, in the event that the hospital's sprinkler system has been out of service for more than 10 hours in a 24-hour service period, and until the system has been returned to service.⁹

CMS is permitting hospitals to enlarge their patient sleeping suites in order to allow for more comfort and space for patients. The new sleeping suites cannot exceed 7,500 square feet, a 2,500 square foot increase

over the previous 5,000 square foot requirement.¹⁰ In addition to patient comfort, this increase in square footage will allow more patients in a contiguous area, thereby reducing the number of staff necessary to monitor patients. As such, CMS estimates that this new square-footage provision will reduce hospital costs by reducing the number of suites, and staff to monitor suites, to treat the same number of patients.¹¹

In addition, CMS has sanctioned door-locking arrangements in order to provide protection for wandering patients and against infant abductions.¹² Hospital staff may lock interior doors to patient rooms, so long as:

- (1) All staff members have keys;
- (2) Smoke detection systems are in place;
- (3) The entire facility is equipped with an automatic sprinkler system;
- (4) The locks will electronically release upon loss of power to the locking device; and,
- (5) The locks will electronically release upon detection of smoke in the smoke detection system or water flow in the automatic sprinkler system.¹³

In addition to the foregoing requirements, CMS's proposed regulations allow the use of aerosol dispensers for alcohol-based hand rubs, subject to certain exceptions, and require smoke control in anesthetizing locations.¹⁴

CMS's proposed regulations also establish separate requirements for ambulatory health care occupancies (e.g., ASCs and outpatient centers) and residential board and care occupancies (e.g., skilled nursing and other boarding facilities). Despite the American Hospital Association's (AHA) disagreements with CMS regarding the 2013 fire safety updates,¹⁵ the AHA has stated that, "*We are pleased that CMS has proposed to update its fire safety regulations, a long-awaited improvement that should make it easier for hospitals to comply with the most recent standards for keeping patients safe.*"¹⁶ Despite these initial, supportive comments, AHA has noted that it will provide additional comments regarding the implications of these proposed standards in the coming weeks.¹⁷

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- 1 “Fact sheets: CMS proposes adoption of updated Life Safety Code,” Centers for Medicare & Medicaid Services, 4/14/2014, <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2014-Fact-sheets-items/2014-04-14.html> (Accessed 5/2/2014); “Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities; Proposed Rule,” 79 Fed. Reg. No. 73, 4/16/2014, p. 21554.
- 2 CMS, 4/14/2014.
- 3 79 Fed. Reg. No. 73, 4/16/2014, p. 21554-5.
- 4 *Ibid.*, p. 21554.
- 5 *Ibid.*, p. 21555.
- 6 *Ibid.*
- 7 *Ibid.*, p. 21570.
- 8 *Ibid.*
- 9 *Ibid.*, p. 21555.
- 10 *Ibid.*, p. 21554.
- 11 *Ibid.*
- 12 *Ibid.*, p. 21555.
- 13 *Ibid.*
- 14 *Ibid.*, p. 21555.
- 15 “CMS proposes new fire safety regs,” By Zack Budryk, 4/15/2014, <http://www.fiercehealthcare.com/story/cms-proposes-new-fire-safety-regs/2014-04-15> (Accessed 5/2/2014).
- 16 “CMS issues proposed rule updating Medicare/Medicaid fire safety standards,” By AHA News Now, 4/14/2014, http://www.ahanews.com/ahanews/jsp/display.jsp?domain=AHANEWS&dcrpath=AHANEWS/AHANewsNowArticle/data/ann_041414_NFPA (Accessed 5/21/2014).
- 17 *Ibid.*; “CMS Proposes Updates to Fire Safety Requirements for Health Care Facilities,” AHASpecial Bulletin, 4/15/2014, <http://www.aha.org/hospital-members/advocacy-issues/bulletin/2014/140415-bulletin.shtml> (Accessed 5/2/2014).



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Robert James Cimasi, MHA, ASA, FRICS, MCBA, CVA, CM&AA, serves as Chief Executive Officer of **HEALTH CAPITAL CONSULTANTS (HCC)**, a nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, MO, serving clients in 49 states since 1993. Mr. Cimasi has over thirty years of experience in serving clients, with a professional focus on the financial and economic aspects of healthcare service sector entities including: valuation consulting and capital formation services; healthcare industry transactions including joint ventures, mergers, acquisitions, and divestitures; litigation support & expert testimony; and, certificate-of-need and other regulatory and policy planning consulting.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Institution of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: “*Accountable Care Organizations: Value Metrics and Capital Formation*” [2013 - Taylor & Francis, a division of CRC Press], “*The Adviser’s Guide to Healthcare*” – Vols. I, II & III [2010 – AICPA], and “*The U.S. Healthcare Certificate of Need Sourcebook*” [2005 - Beard Books]. His most recent book, entitled “*Healthcare Valuation: The Financial Appraisal of Enterprises, Assets, and Services*” was published by John Wiley & Sons in March 2014.

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious “*Shannon Pratt Award in Business Valuation*” conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows. In 2011, he was named a Fellow of the Royal Institution of Chartered Surveyors (RICS).



Todd A. Zigrang, MBA, MHA, ASA, FACHE, is the President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas valuation and financial analysis for hospitals and other healthcare enterprises. Mr. Zigrang has significant physician integration and financial analysis experience, and has participated in the development of a physician-owned multi-specialty MSO and networks involving a wide range of specialties; physician-owned hospitals, as well as several limited liability companies for the purpose of acquiring acute care and specialty hospitals, ASCs and other ancillary facilities; participated in the evaluation and negotiation of managed care contracts, performed and assisted in the valuation of various healthcare entities and related litigation support engagements; created pro-forma financials; written business plans; conducted a range of industry research; completed due diligence practice analysis; overseen the selection process for vendors, contractors, and architects; and, worked on the arrangement of financing.

Mr. Zigrang holds a Master of Science in Health Administration and a Masters in Business Administration from the University of Missouri at Columbia. He is a Fellow of the American College of Healthcare Executives, and serves as President of the St. Louis Chapter of the American Society of Appraisers (ASA). He has co-authored “*Research and Financial Benchmarking in the Healthcare Industry*” (STP Financial Management) and “*Healthcare Industry Research and its Application in Financial Consulting*” (Aspen Publishers). He has additionally taught before the Institute of Business Appraisers and CPA Leadership Institute, and has presented healthcare industry valuation related research papers before the Healthcare Financial Management Association; the National CPA Health Care Adviser’s Association; Association for Corporate Growth; Infocast Executive Education Series; the St. Louis Business Valuation Roundtable; and, Physician Hospitals of America.



Matthew J. Wagner, MBA, is Senior Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas of valuation and financial analysis. Mr. Wagner has provided valuation services regarding various healthcare related enterprises, assets and services, including but not limited to, physician practices, diagnostic imaging service lines, ambulatory surgery centers, physician-owned insurance plans, equity purchase options, physician clinical compensation, and healthcare equipment leases.



John R. Chwarzinski, MSF, MAE, is a Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**. Mr. Chwarzinski holds a Master’s Degree in Economics from the University of Missouri – St. Louis, as well as, a Master’s Degree in Finance from the John M. Olin School of Business at Washington University in St. Louis. Mr. Chwarzinski’s areas of expertise include advanced statistical analysis, econometric modeling, and economic and financial analysis.



Jessica L. Bailey, Esq., is the Director of Research of **HEALTH CAPITAL CONSULTANTS (HCC)**, where she conducts project management and consulting services related to the impact of both federal and state regulations on healthcare exempt organization transactions and provides research services necessary to support certified opinions of value related to the Fair Market Value and Commercial Reasonableness of transactions related to healthcare enterprises, assets, and services. Ms. Bailey is a member of the Missouri and Illinois Bars and holds a J.D. and Health Law Certificate from Saint Louis University School of Law, where she served as Fall Managing Editor for the Journal of Health Law and Policy.