Life Safety Update

Fire Safety Evaluation System (FSES)

There is an alternative to the standard life safety survey. It is the Fire Safety Evaluation System for Health Care Facilities and the Fire Evaluation System for Residential Board and Care Facilities (assisted living), known as FSES. The FSES is a numerical evaluation system used to determine the relative level of fire/life safety in nursing homes and assisted living facilities as compared to explicit compliance with the applicable requirements of the National Fire Protection Association (NFPA) Life Safety Code (LSC) for health care and assisted living facilities. Section 1.5 of the 2000 edition of the LSC recognizes the use of alternative methods and equivalences. The Centers for Medicare & Medicaid Services (CMS) explicitly recognized the use of the FSES in the Medicare/Medicaid Regulations that adopted the 2000 LSC. The FSES that is applicable to the 2000 LSC is contained in the 2001 Guide on Alternative Approaches to Life Safety (NFPA 101A).

CMS’s State Operations Manual, Appendix I, Survey Procedures and Interpretative Guidelines for Life Safety Code Surveys states in Section II, Task 6, Exit Conference, that the surveyor should “Review with the facility alternatives to compliance with the prescriptive requirements of the LSC if appropriate, such as waivers of specific life safety code requirements or the suitability of the facility to achieve compliance using the FSES.” If this doesn’t occur during an exit conference, the facility should initiate the discussion relative to the FSES.

The development of the FSES was funded by CMS in the 1970’s as an alternative method for facilities to comply with the LSC and has been recognized by CMS and the LSC ever since. The FSES is also an alternative to waivers in that if a facility “passes” the FSES without complying with the explicit requirements of the LSC, the facility is considered in compliance with the LSC and therefore no waiver(s) are required. Passing the FSES is, in fact, the facility’s “plan of correction.”

The FSES compares the level of safety provided by an arrangement of safeguards that differ from those specified in the LSC, to the level of safety provided in a building that conforms exactly to the details of the LSC. For example, the LSC does not require smoke detectors in the corridors or sleeping rooms of an existing nursing home. When a facility is surveyed for explicit compliance with the LSC, the facility gets no “credit” for the smoke detectors against deficiencies for the lack of explicit compliance with the LSC. If the facility were to use the FSES, the facility could use the fact that smoke detectors were installed to “offset” other deficiencies that might exist.

Another example of when the FSES could be used is the recent and frequently cited deficiency of the lack of sprinklers under over hangs, outside porches, canopies, in closets, etc. The FSES addresses this type of deficiency very well. If a facility is fully sprinklered it receives ten points for the sprinkler protection. If the facility is only sprinklered in corridors and habitable spaces, and does not have sprinkler protection, for
example, under over hangs, in closets, and/or canopies, the facility would still receive eight points for the sprinkler system even if it does not comply with the explicit requirements of the LSC. The facility may pass the FSES with the eight points for the sprinkler protection and would not have to correct the deficiency or provide alternative protection. If the facility does not pass the FSES even with those eight points, the facility has the option to evaluate less costly options to upgrading the sprinkler system that allow the facility to pass the FSES. This is one of the major advantages of the FSES option: it allows the facility to evaluate and select options to explicit compliance with the LSC based on a cost benefit analysis.

Another advantage of the FSES analysis is that similar, multiple deficiencies are not numerically accumulative. For example, if a facility has multiple exit deficiencies, the FSES only penalizes once with a negative two scoring for exit deficiency and not a negative two for each individual deficiency.

The FSES was frequently used in the 1970’s and 1980’s to allow existing buildings an alternative means to document compliance with the LSC. In recent years, the FSES has been used infrequently by providers and we believe that with the significant increase in deficiencies related to the LSC survey, providers should once again consider the use of the FSES as an alternative to explicit compliance with the LSC. Regulations allow a provider to request the state survey agency use the FSES and the survey agency, at its option, may complete the FSES for the facility. Alternatively, the survey agency may review the FSES which has been completed by a consultant and submitted by the facility as part of the facility’s plan of correction. The FSES should be considered where it is not physically practical to correct a deficiency or where the deficiency or multiple deficiencies would be considered an economic hardship. It is important to note that the FSES is part of the facility’s plan of correction and must be completed annually. Please note: some states have a limited number of surveyors who are trained in the use of the FSES; and the FSES should not be used as an alternative for minor deficiencies or deficiencies that can be corrected without an economic hardship.

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