

M E M O R A N D U M

To: All Licensed Assisted Living Facilities

From: Felicia Cooper, Deputy State Fire Marshal Administrator
Don Zeringue, Chief Architect

Approved: Henry Fry,
Deputy Assistant Secretary

Date: March 16, 2004

Re: Egress Issues at Assisted Living Facilities

The purpose of the attached Memorandum of Policy is to establish the position of the Office of State Fire Marshal regarding requests for special locking arrangements in existing Assisted Living facilities.

Some Assisted Living facilities have been cited in inspection reports for installing locks similar to those found in health care and detention facilities. It is permissible to install these locks in health care facilities because the evacuation capability of each resident is allowed to decline over time due to diminished mental acuteness. It is self-evident that locks in a means of egress are necessary in detention facilities.

However, locking doors in a means of egress in Assisted Living facilities is contrary to the regulatory framework in Louisiana. Regulation in Louisiana is based upon the movement of residents with diminished mental acuteness from a less secure to a safer and more secure setting. Nevertheless, placement decisions made by the families and the facilities housing Alzheimer and dementia residents often leaves them in a setting in which doors in a path of egress are locked, contrary to the regulatory design and posing a danger in emergency situations.

The role of the State Fire Marshal is to reasonably safeguard the residents of these facilities using the statutory and regulatory framework that informs his office regardless of the placement decision made. Therefore, the attached Memorandum of Policy applies to Assisted Living facilities as of April 1, 2004. This policy is not applicable to facilities for which plans are currently under consideration or are to be submitted on or after April 1, 2004. This document pertains only to existing Assisted Living facilities requesting special locking arrangements for residents with mental illness or mental limitations making them incapable of self-preservation.

cc: Louisiana Assisted Living Association
Ann Williamson, Secretary, Department of Social Services
Frederick P. Cerise, M.D., M.P.H., Secretary, Department of Health and Hospitals
V. J. Bella, State Fire Marshal
State Fire Marshal District Offices
Tony Walker, Staff Attorney

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MISSION STATEMENT

The mission of the Office of the State Fire Marshal, found at RS 40:1563 A, combined with the National Fire Protection Association (NFPA) *Life Safety Code*, 101:4.1.1 (2000 edition), would produce the following objective for the Office of State Fire Marshal:

To insure reasonable safety from the hazards from fire or explosions and the panic which may arise therefrom.

FUNDAMENTAL OPERATIONAL PRINCIPLE

The fundamental operational principle to assure reasonable safety from fire and explosions shall be redundancy. NFPA 101:4.5.1 calls for additional safeguards to cover an event where a single safeguard fails.

SAFEGUARDS - EGRESS

NFPA 101:4.5.3.1 applies the "redundancy" principle to egress and stipulates a minimum of two means of egress. NFPA 101:4.5.3.2 requires free and unobstructed egress from any building other than health care and detention facilities. Health care and detention facilities must have staff who are continually on duty and trained to remove occupants in an emergency.

EGRESS AND RESIDENTIAL BOARD AND CARE - ASSISTED LIVING

Assisted Living facilities are referred to in the Life Safety Code as "Residential Board and Care" facilities. NFPA 101:32.3.2.2.2 states that:

No door in any means of egress shall be locked against egress when the building is occupied.

Exceptions are allowed for "delayed-egress" locks and "access-controlled" egress doors.

PROBLEM STATEMENT

The presence of residents in Residential Board and Care facilities who are incapable of self-preservation because of mental illness or mental limitations forces the Office of State Fire Marshal to strictly enforce the requirement against locked doors in the path of egress on facilities with residents who may need to be in a secure setting for their own benefit.

One approach to the problem is to have a competent authority assess the appropriateness of the placement of these residents. In Louisiana, the Department of Health and Hospitals and the Department of Social Services entered into a Memorandum of Understanding on 12-6-99. The Memorandum of Understanding provides that the Department of Health and Hospitals will be consulted and may opt to participate in an investigation when the health status or acuity level of a resident must be assessed. The dilemma for the Office of State Fire Marshal is that the safety of residents during emergency situations may require measures (unlocked doors) which constitute a danger to their safety in non-emergency situations.

EMERGENCY EGRESS

NFPA 101:32.7.1 requires an emergency evacuation plan to be developed and maintained by the administrator of the facility and to be reviewed not less than every two months by the staff of a Residential Board and Care facility.

DRILLS

NFPA 101:32.7.3 sets forth the model for fire drills:

1. Frequency should be at least 6 times a year on a bimonthly basis with not less than two drills conducted during the night when residents are sleeping.
2. Drills can be announced in advance to residents. Drills should simulate an actual emergency as much as possible.
3. Drills must involve actual evacuation of all residents to an assembly point specified in the emergency plan.

NFPA 101.32.7.3 calls for drills to demonstrate the ability to relocate residents in a timely fashion to a "point of safety" per NFPA 101:3.3.151 and the emergency plan per NFPA 101:32.7.1. A point of safety acceptable to the Fire Marshal may be within or exterior to the building (NFPA 101:3.3.151).

The point of safety may be within a building of Type I, Type II(222), Type II(111), Type III(211), Type IV, Type V(111), or any type construction protected throughout by an approved automatic sprinkler system, and is either:

1. within an exit enclosure meeting the requirements of the Life Safety Code, or
2. within another portion of the building that is separated by smoke barriers in accordance with NFPA 101, section 8.3, with not less than a 1/2-hour fire resistance rating, and that portion of the building has access to a means of escape or exit that conforms to the requirements of the Life Safety Code and does not necessitate return to the area of fire involvement.

EVACUATION CAPABILITY

NFPA 101:32.3.1.2 and NFPA 101:3.3.56 establish that evacuation capability is the ability of staff, occupants, and residents as a group to either evacuate a building or relocate from a point of occupancy to a point of safety.

NFPA 101:32.3.1.2 allows determination of equivalency. Equivalency is deemed in NFPA 101:1.5 to be alternative systems, methods, or devices approved as equivalent by the authority having jurisdiction. The editor's commentary within the code handbook provides elaboration and states that equivalency is different from a waiver that permits continued use of a noncomplying building. When an alternative approach to life safety is accepted by the authority having jurisdiction (AHJ) as being equivalent to code requirements, the building is considered to be compliant. Therefore, if the Office of State Fire Marshal can resolve the conflict between the safety requirements of residents in emergency and non-emergency situations, then an acceptable equivalency must be found which will achieve code compliance. The Office of State Fire Marshal has no authority to allow a waiver of the minimum code requirements.

Under strict enforcement of the NFPA 101 Life Safety Code, all locking against egress that is not specifically permitted as applicable for Residential Board and Care occupancies directly violates the minimum code requirements. Under the authority to take the steps necessary and proper to protect life and property in accordance with RS 40:1563 A, the Office of the State Fire Marshal recognizes that equivalencies may be proposed and considered for the purpose of permitting special locking arrangements at facilities that qualify for such equivalency.

SPECIAL LOCKING ARRANGEMENTS

The Office of State Fire Marshal will consider such requests for use of special locking arrangements from "existing" Residential Board and Care facilities that are functioning as "Assisted Living Facilities" on a **case-by-case equivalency appeal basis**. Appeals are evaluated subject to the following criteria:

1. A submittal of a **written description signed by the Owner or Administrator** of the facility detailing the operation of the proposed special locking arrangement submitted on the "letterhead" of the applicable facility to include **all** of the following information:
 - A. The **reason** for installing a special locking arrangement.
 - B. Verification that **unlocking** is accomplished by **all** of the following:
 - 1) **Loss of power** to the locking/releasing device.
 - 2) **Activation of the fire alarm system**. The **fire alarm contractor** is only responsible for the proper connection of the locking system to the building's fire alarm system. The **owner** is responsible for ensuring the overall operation, performance and maintenance of the locking system (verify licensing requirements for installation of the locking system with the State Fire Marshal Licensing section).
 - 3) **Remote release** provided at a designated control station within the locked area.
 - 4) A means of **manual mechanical unlocking** provided at each door that is not in **direct view** of the remote release location. Doors must be keyed alike and all responsible staff members must carry keys at all times. (Keypads, card access, or other electrical devices are **NOT** acceptable as a manual mechanical means of unlocking doors during emergency conditions.)

- C. Verification that **“automatic” re-locking** of the system **shall not occur**. **Automatic re-locking** after an emergency release as described above **is prohibited**. A specific manual action must be taken that is dedicated only for re-locking doors.
2. A submittal of a **floor plan** of the facility showing the location of the locked door(s), control station(s) and remote release location(s). NOTE: The remote control functions must be identified at the remote release location(s) with permanent legible signage.
 3. A submittal of **manufacturer’s specification sheets** for the locking system that indicate locking devices are properly listed for the intended purpose. (verify licensing requirements for installation of the locking system with the State Fire Marshal Licensing section).
 4. Indication that **emergency forces notification** (by automatic transmission of the fire alarm), as required for detention and health care occupancies, is provided and maintained as part of the building’s required fire alarm system.
 5. Verification that **combustible decorations** are not located within the locked area. Combustible decorations are **prohibited within the locked area**, unless they are flame-retardant.
 6. Verification that **soiled linen receptacles, wastebaskets and other trash collection containers** have lids and are of noncombustible or other approved material unless the capacity does not exceed 20 gallons.
 7. Verification whether the **locked area is located on the first floor only**; verification that not more than **one locking device** is provided in any single path of egress.
 8. Verification whether not less than two **smoke compartments** of approximately the same size are provided using smoke barriers installed in accordance with the applicable section of the NFPA 101 Life Safety Code. The smoke barriers shall have a fire resistance rating of not less than 1 hour. Note: does not apply to small facilities or 16 or less residents.
 9. Verification whether the Residential Board and Care facility is protected throughout by an approved, supervised automatic sprinkler system.
 10. **Fire Drill documentation**, signed by the Owner or Administrator of the facility, maintained at the facility at all times and made available for review by the State Fire Marshal inspector upon request.

NOTE: All new "Assisted Living Facilities" should be submitted for review to the State Fire Marshal for compliance with the requirements for "Limited Care Facilities" as prescribed in the health care occupancy chapter of the most recently adopted edition of the NFPA 101 Life Safety Code if the facility is requesting special locking arrangements. As a point of clarification, this is not intended to affect licensure with the Department of Social Services. Submittal for review as a Limited Care Facility does not necessarily affect licensure by the Department of Social Services.

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