

700 Kipling Street, Suite 4100

Lakewood, CO 80215
303.239.4100

12/1/2021

# To All Interested Parties Associated With Health Care Facilities Licensed by the Colorado Department of Public Health and Environment.

**DFPC is distributing the following information to ensure that our partners associated with our regulated health facilities are aware of the legislative changes that took effect on July 1, 2021.**

**As part of Colorado House Bill 19-1237 and effective July 1, 2021 the Colorado State Legislature modified the scope of the Colorado Division of Fire Prevention and Control’s (DFPC) application of its adopted codes to include “…facilities certified or potentially eligible for certification by the federal centers for Medicare and Medicaid services…”.**

**This modification is intended to ensure equal fire and life safety protection to all occupants of similarly state licensed health facilities and guarantee there are not disparate levels of fire and life safety provided by state licensed health facilities based solely on the fact that the facility either does or does not participate in Medicare or Medicaid.**

**The net result of this modification is that state licensed health care facilities that previously elected not to participate in Medicare or Medicaid but who could potentially be eligible to be certified to bill Medicare or Medicaid now fall under both the local fire jurisdiction’s code provisions as well as DFPC’s adopted codes and standards for those facilities. While the number of additional facilities that will now also need to comply with the Division’s adopted codes and standards is relatively small, DFPC is cognizant that this change may affect how some of these facilities move forward with future operations.**

**Some of the potential impacts to consider might include:**

# Plan Review and Permits

New construction, additions, remodels, and rehabilitation projects not permitted and/or for which a complete application was not received by CDPHE for licensure prior to July 1st, 2021 should submit for DFPC plan review and construction permitting. This is to ensure that any construction activities are performed in accordance with the state’s adopted codes and standards to prevent compliance challenges during subsequent fire and life safety code inspections. Plan review projects can be submitted through DFPC’s plan review process at: [https://dfpc.colorado.gov/permit-applications](https://dfpc.colorado.gov/permit-applications%20)

# Resident Evacuation Capability Evaluation

If, according to DFPC’s adopted edition (currently 2012) of the NFPA 101 Life Safety Code, your facility is classified as a Residential Board & Care Occupancy, you may need to be evaluating the evacuation capability of your residents. Residential Board & Care occupancies are defined and clarified as:

**Residential Board and Care Occupancy.** An occupancy used for lodging and boarding of four or more residents, not related by blood or marriage to the owners or operators, for the purpose of providing personal care services.

**The following are examples of facilities that are classified as residential board and care occupancies:**

(1) Group housing arrangement for physically or mentally handicapped persons who normally attend school in the community, attend worship in the community, or otherwise use community facilities

(2) Group housing arrangement for physically or mentally handicapped persons who are undergoing training in preparation for independent living, for paid employment, or for other normal community activities

(3) Group housing arrangement for the elderly that provides personal care services, but that does not provide nursing care

(4) Facilities for social rehabilitation, alcoholism, drug abuse, or mental health problems that contain a group housing arrangement and that provide personal care services but do not provide acute care

(5) Assisted living facilities

(6) Other group housing arrangements that provide personal care services, but not nursing care

In Colorado, Residential Board & Care occupancies are typically licensed as Assisted Living Residences, DD Group Homes, and ICF/IIDs. Individuals in these facilities are not receiving nursing care and generally can take actions to evacuate for self-preservation in the event of a fire or other emergency. Sometimes those actions for self-preservation may be delayed or require assistance. The resident evacuation capability evaluations will help show the facility how they might revise their evacuation plan to accommodate those individuals who may need prompting or assistance to evacuate. The evacuation scores from all the residents will also be used to calculate an evacuation rating (prompt, slow, or impractical) for the facility to determine if there are other necessary fire safety features needed in the facility to ensure a safe evacuation path and time period for all residents to evacuate. It is important to note that if a Residential Board & Care facility does not rate its residents’ evacuation capability, the facility is presumed to be classified as “Impractical” (the most stringent of the requirements) and the facility will be inspected to that classification.

Resources to help you conduct the evacuation capability evaluations on the Residential Board and Care occupancy residents in your facility can be found at:

https://dfpc.colorado.gov/FSES

# Attic Fire Safety Devices in Sprinklered Facilities

Following a tragic fatal fire in Wells, New York, the National Fire Protection Association included a retro-active requirement to ensure that residential board and care facilities that have sprinkler systems have fire safety features to prevent a fire from burning in attic spaces unnoticed by the occupants below. Any One of Four criteria can be met. The code states:

**33.2.3.5.7.2** Where an automatic sprinkler system is installed, attics not used for living purposes, storage, or fuel-fired equipment shall meet one of the following criteria:

1. Attics shall be protected throughout by a heat detection system arranged to activate the building fire alarm system in accordance with Section 9.6.

(2) Attics shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.

(3) Attics shall be of noncombustible or limited-combustible construction.

(4) Attics shall be constructed of fire-retardant-treated wood in accordance with NFPA 703, Standard for Fire Retardant–Treated Wood and Fire-Retardant Coatings for Building Materials.

Usually facilities that do not already meet one of these criteria find that retrofitting their attics with heat detection in accordance with criteria (1) above is the most cost effective. Based on recent conversations DFPC has had with subject matter experts familiar with fire alarm installation and the requirements the LSC the cost to retrofit these heat detectors into existing fire alarm systems is usually in the range of $800 to $2500 depending on how complex the facilities attic layout is.

DFPC is encouraging facilities housing residential board and care occupancies who have not previously been subject to DFPC’s codes and standards to begin working with their design professionals (Architects, engineers, fire alarm companies, or fire suppression companies) to ensure they are meeting one of the criteria above.

DFPC has already begun inspecting these facilities and we are committed to approaching this transition period collaboratively to get these systems installed in a manner that minimizes the fiscal and physical impacts on the facility, while ensuring a safe environment is provided to the residents. To that end, when DFPC inspects a facility we will work with the facility to afford time to get the revisions to the applicable system installed while evaluating and assisting in the implementation of interim life safety measures.

# Occupancy Classification and Means of Egress Arrangements

DFPC has found a few instances where a facility has installed door locking hardware that restricts the free egress of the residents without also installing delayed egress hardware that overrides that door restriction. It is important to note that in order to comply with the definition and assumptions of the capabilities of the residents of a Residential Board & Care occupancy, the occupants must have free egress to a place of safety. The LSC does allow the use of listed “Delayed Egress locks” on exterior doors only. These devices secure the door closed for up to 30 seconds with an alarm but at the end of those 30 seconds, the door must release and allow egress.

If a facility must use door locking arrangements that limit the egress from the facility outside the parameters of a listed delayed egress lock, the facility may need to be considered as a different occupancy type. Facilities that are using locking arrangements beyond the limitations of a listed delayed egress lock should reach out to their design professionals and door hardware companies to discuss the impacts for their facilities to either install compliant delayed egress locks or to be evaluated as an occupancy type which affords complete locking of the means of egress such as healthcare.

**DFPC is committed to assisting Colorado’s licensed healthcare facilities to provide the patients and residents a safe environment in which to receive care and treatment. This advisory letter is provided to help facilities identify potential fire and life safety concerns and to begin efforts to correct them before the next visit by a DFPC inspector. As always DFPC staff are glad to assist facilities and their design professionals in their evaluation and (if necessary) correction efforts before, during and after their next inspection. The Fire and Life Safety Section staff can be reached at (303) 239-4100.**