

Comments by Paul Acre received September 2, 2020, regarding The Rules for Hospitals and Related Institutions in Arkansas and the Rules for Critical Access Hospitals.

Comment 1:

The Occupancy provisions in the Regs do not correlate with the Occupancy considerations of the Life Safety Code.

The issue started several months ago, when I was talking with an Architect, and he was doing an ASC, and decided that 47.C Multiple Occupancy required a 2-hr barrier between the ASC and the Clinic.

I told him don't do it, but he did it anyway, (Note I did this as a friend for no money). It was easy lines on paper what's the big deal.

Well here it is several months later, design submitted and approved, construction underway. Now the Architect I dealt with, his boss has contacted me and said they ran into construction issues, is there anyway they can get out of the 2-hr, and convert it to 1-hr. As disclosure, I am getting paid by the architect to consult on this.

So, the good news, I called and conferenced called with David and the Engineers. It went well, and think that it is resolved.

The bad news, per **the List of Occupancy in 47.B**, if taken literally, requires a **2-hour fire resistive rated smoke barrier**, between a General Hospital, Outpatient Care Facility, Rehabilitation Facility, Rehabilitation Facility, Alcohol/Drug Abuse Treatment Center, Infirmary and/or any **Non-Healthcare Occupancy**.

This type of subdivision of areas in a hospital, is both unrealistic, and unintended in the Regs. The intent, I speculate as it was before my time, was for the Separately Licensed facilities that might be constructed in a Hospital/Health Care Occupancy. Per the LSC, a part of the building being 2-hour fire separated can be considered a separate Occupancy according to the LSC and CMS. This was a big

thing you might recall when Skilled Nursing Facilities, and other Hospitals within Hospitals were being established in Hospitals. According to CMS and the Life Safety Code, if they weren't 2-hr/Occupancy separated, we had to inspect potentially the whole facility. I've tried to explain this to David and the Engineers.

Actually, now in retrospect, the way **47.B** is written, it appears to say all these facilities and USE areas have to be 2-hour fire separated.

Occupancy, the way it's defined and used in the Regs, is confusing and inconsistent from the way Occupancies is used in the Life Safety Code. Occupancies per the Life Safety Code per CMS interpretations is based on use by inpatients (those admitted to a hospital for overnight care/sleeping) LSC/Health Care Occupancies and those that get incapacitated/anesthetized at an ASC, LSC/Ambulatory Health Care Occupancies.

The Occupancies of the Life Safety Code, is my world, I do it better than anyone. The Regs, I tended to ignore, because it didn't make any sense.

True Occupancy separation for CMS & Life Safety Code for Hospital/Health Care Occupancies is done

with 2-hour barriers, the requirement for smoke is a separate issue.

True Occupancy separation for CMS & Life Safety Code for ASC's/Ambulatory Health Care Occupancies is done with a 1-hour barriers.

There is not a single ASC in all the time I was working at ADH, that was ever requested or required to

be 2-hour separated from a clinic. If a licensed ASC is established in a hospital, it would have to be 2-

hour separated, because of Hospital requirements. An ASC, put in a Medical Office Building, would only have to be 1-hour fire barrier separated. This is consistent with the Life Safety Code, which CMS requires.

Taken literally, 47.B could be interpreted to subdivide a Hospital into 2-hr fire compartments simply based on the described use per the 47.B List...

From the Regs

47.C. Multiple Occupancy: Facilities may contain more than one occupancy (as described above) provided each different occupancy is separated from all other occupancies **by a 2-hour fire resistive rated smoke barrier.**

47.B. Occupancy: Each licensed facility **or** portion of a licensed facility shall be classified as indicated below:

- 1. General Hospital:** A facility or portion of a facility licensed by the Department as a General Hospital that provide for patient care, treatment, or diagnosis on a 24 hour basis and provides treatment or anesthesia for patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others.
- 2. Mobile, Transportable, and Relocatable Unit:** A portion of a facility licensed by the Department that meets the definitions provided in Section 58 for mobile, transportable, and relocatable units.
- 3. Freestanding Ambulatory Surgery Center:** A facility or portion of a facility licensed by the Department as a Freestanding Ambulatory Surgery Center that provides patient care, treatment, or diagnosis on a less than 24 hour basis and also provides treatment or anesthesia for patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others.
- 4. Outpatient Care Facility:** A portion of a facility licensed by the Department that provides patient care, treatment, or diagnosis on a less than 24 hour basis and does not provide treatment or anesthesia for patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others. Outpatient care facilities may be utilized on occasion by hospital inpatients provided that such use is limited to a less than 24 hour basis.
- 5. Rehabilitation Facility:** A facility or portion of a facility licensed by the Department as a Rehabilitation Facility.
- 6. Psychiatric Hospital:** A facility or portion of a facility licensed by the Department as a Psychiatric Hospital.
- 7. Alcohol/Drug Abuse Treatment Center:** A facility or portion of a facility licensed by the Department as an Alcohol/Drug Abuse Treatment Center.
- 8. Infirmary:** A facility or portion of a facility licensed by the Department as an Infirmary.
- 9. Non-Healthcare Occupancy:** A portion of a licensed facility that does not contain areas

intended for patient care, treatment, or diagnosis and does not contain equipment (mechanical, electrical, plumbing, communication, fire alarm, etc.) that serves areas intended for patient care, treatment, or diagnosis.

Comment 2:

I thought I would take look at ASC provisions in the Regs. I thought 79.F was a bit humorus... regarding shared services... where outpatient surgical services are provided within the same area or suite as inpatient surgery, really? Note direct references to 47.B and 47.C.

**SECTION 79: PHYSICAL FACILITIES, FREESTANDING
AMBULATORY SURGERY CENTERS.**

A. General Construction Considerations. See **Section 47.B**, Physical Facilities.

B. Site Location, Inspection, Approval, and Subsoil Investigation. See **Section 47.C**-G, I and J, Physical Facilities.

C. Construction Documents. See Section 47.H, Physical Facilities.

D. Codes and Standards. See Section 47.B and K, Physical Facilities.

E. General. Outpatient surgery is performed without anticipation of overnight patient stay. The functional program shall describe in detail staffing, patient types, hours of operation, function and space relationships, transfer provisions, and availability of offsite services.

Visual and audible privacy shall be provided by design and include the registration, preparation, examination, treatment, and recovery areas.

F. If the ambulatory surgery center is part of an acute care hospital or other medical facility, service may be shared to minimize duplication as appropriate. Where outpatient surgical services are provided within the same area or suite as inpatient surgery.

G. Size. The extent (number and types) of the diagnostic, clinical, and administrative facilities to be provided will be determined by the services contemplated and the estimated patient load as described in the functional program. Provisions shall be made for patient examination, interview, preparation testing, and obtaining vital signs of patient.