

JUNE 14, 2004

**SCHAKOWSKY SHINES THE LIGHT ON GOVERNMENT REGULATION THAT PLACES SENIORS & PERSONS WITH DISABILITIES AT RISK**

**2,250 NURSING HOMES/LONG-TERM CARE FACILITIES OPERATE WITHOUT SPRINKLER SYSTEM**

WASHINGTON, D.C. - U.S. Representative Jan Schakowsky (D-IL) today shined the light on a government regulation that is placing *"elderly and disabled patients and nursing home residents - individuals whose mobility and vision are commonly impaired - at great risk by allowing them to live in facilities that are not equipped with essential fire safety equipment."*

In a letter to Centers for Medicare and Medicaid Services (CMS) Administrator Mark McClellan, Schakowsky expressed concern about the *"Life Safety Code (LSC) regulations that were adopted by CMS on January 10, 2003"*

□ that allowed

*".2,550 older facilities, including nursing homes, hospitals, long-term care facilities, intermediate care facilities for mentally retarded and other facilities to operate without sprinkler systems."*

Schakowsky continued, *"Tragically, the dangerous implications of these regulations have already been realized with the deaths and injuries to over 50 nursing homes residents and workers in fires that occurred in facilities in Nashville, TN; Maryville, TN; Raleigh, NC; Hartford, CT and Nazareth, PA since the regulations were adopted. None of those facilities were equipped with fire sprinkler systems.no long-term facility with a fully operating sprinkler system has ever experienced a multiple death fire in the United States."*

Schakowsky said that while it will *"take time and resources to carry out the optimal solution"*

of installing a sprinkler system in every nursing home, CMS can take intermediary steps

*"to improve resident and patient safety."*

□ For example, Schakowsky called on CMS to fully enforce existing safety requirements and to ensure that violators take the corrective steps to meet current standards.□□

Below is the full text of Schakowsky's letter to Administrator McClellan:

June 14, 2004

Mark B. McClellan, M.D., Ph.D.  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Dr. McClellan:

□ I am writing to express my concern with the Life Safety Code (LSC) regulations that were adopted by CMS on January 10, 2003. □ As you know, those regulations allow approximately 2,550 older facilities, including nursing homes, hospitals, long-term care facilities, intermediate care facilities for mentally retarded and other facilities to operate without sprinkler systems. □ I am concerned that these regulations place elderly and disabled patients and nursing home residents - individuals whose mobility and vision are commonly impaired - at great risk by allowing them to live in facilities that are not equipped with essential fire safety equipment. □ Nursing home workers and firefighters who are charged with attempting to save those patients and residents are also at risk.

□ Tragically, the dangerous implications of these regulations have already been realized with the deaths and injuries to over 50 nursing homes residents and workers in fires that occurred in facilities in Nashville, TN; Maryville, TN; Raleigh, NC; Hartford, CT and Nazareth, PA since the regulations were adopted. None of those facilities were equipped with fire sprinkler systems. The potential danger of not installing sprinkler systems in nursing homes is clearly great, but it is highly preventable. According to the National Fire Protection Association, fire sprinklers have been shown to be the most important life safety system installed in health care facilities. Furthermore, no long-term facility with a fully operating sprinkler system has ever experienced a multiple death fire in the United States. □ □

□ I understand that it will take time and resources to carry out the optimal solution to this problem - to install sprinkler systems in all nursing homes. □ However, I believe that there are other intermediary steps that can be taken in the meantime to improve resident and patient safety. □ For example, it appears that even existing requirements are not being adequately enforced. I am concerned that the CMS instructions to nursing home surveyors are not strict enough and that the guidance gives providers unnecessary flexibility in continuing unsafe operations without facing any penalties. Nursing homes

are allowed to request waivers if they cannot meet the life safety requirements. Furthermore, states are not required to re-survey facilities to ensure that they have followed through in compliance with fire safety regulations. The LSC surveys do not provide guidance on conducting surveys at night, when staffing shortages and the danger of fire deaths are most acute. It is extremely troubling to me that nursing homes and other facilities with unsafe fire safety practices may face few or no penalties, survey standards are not being enforced, and corrective action is not being required. Finally, I am greatly concerned that nursing home life safety code violations or deficiencies are not made publicly available on the [www.Medicare.gov](http://www.Medicare.gov) nursing home database. While the database provides data on quality of care measures, inspection results and nursing home staffing, the database does not report violations of Life Safety Codes or fire safety regulations.

To begin working towards solutions that would secure the well-being of nursing home residents throughout the country, I would appreciate receiving the following information:

- (1) A breakdown of the 2,550 older facilities exempt from installing sprinkler systems under the January 10, 2003 LSC regulations by category - nursing homes, long-term care facilities, intermediate care facilities for the mentally retarded, ambulatory surgery centers, hospices that provide inpatient services, religious non-medical health care institutions, critical access hospitals, and Programs of All-Inclusive Care for the Elderly facilities.
- (2) The number of nursing homes exempt from installing sprinkler systems under the January 10, 2003 LSC regulations, especially the number of nursing homes that receive Medicaid / Medicare funding and the number of residents housed in those nursing homes.
- (3) Any cost analyses regarding the cost of retrofitting older facilities with fire sprinklers.
- (4) Description of waivers issued to nursing homes that cannot meet life safety requirements.
- (5) List of penalties and citations against nursing homes for failure to meet life safety requirements.
- (6) Any steps taken by CMS to ensure that nursing home facilities are held to the strictest standards of fire safety compliance.

Given the urgency of this situation, I look forward to your response as soon as possible. I believe that this life threatening situation can and should be remedied, and I hope that you will give this matter the urgent attention it deserves.

Sincerely,

Jan Schakowsky  
Member of Congress