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November 6, 2007

AFL 07-24

TO: General Acute Care Hospitals  
Acute Psychiatric Hospitals  
Skilled Nursing Facilities  
Congregate Living Health Facilities  
Intermediate Care Facilities  
Intermediate Care Facilities for the Developmentally Disabled  
Intermediate Care Facilities for the Developmentally Disabled-Habilitative  
Intermediate Care Facilities for the Developmentally Disabled-Nursing  
Intermediate Care Facilities for the Developmentally Disabled-Mentally Retarded  
Adult Day Health Centers

SUBJECT: **HEALTHCARE FACILITY ENROLLMENT IN PUBLIC UTILITY COMMISSION ENERGY CONSERVATION PROGRAMS FOR CENTRAL AIR CONDITIONING USE**

The subject matter contained in this All Facilities Letter (AFL) may seem untimely due to the seasonal change from summer to fall weather and subsequent cooling trends in California. However, the issue of healthcare facility enrollment in public utility commission energy conservation programs was recently elevated to the Department of Public Health (CDPH) Licensing and Certification Program (L&C) for review and analysis and, since enrollment in these programs is usually for a minimum of one year, the information and analysis has resulted in the issuance of this AFL at this time.

**Background:**

Energy conservation programs offered by Public Utility Commissions (PUC) are available to business and residential customers. These programs offer cost savings to enrolled customers who agree to allow the PUC to control the availability of central air conditioning during peak energy use periods through an automatic shut-off system applied to the owner's central air conditioning equipment.

To assess the conditions imposed under PUC energy conservation programs, CDPH L&C reviewed a sampling of PUC programs representative of large and small geographic areas in California. The following conditions for participation were commonly found:

- Participants must agree to follow the respective PUC plan for a specific duration which is generally a minimum requirement of one (1) year from the date of enrollment in the plan. Annual renewal in the program is automatic unless the PUC receives a termination notice from the customer.
- Some PUC programs offer either a “base” or “enhanced” option that specifies the number of times per season the central air conditioning may be interrupted. For example, a base plan allows the PUC to shut off the central air conditioner a maximum of 15 times for up to six (6) hours per occurrence during the summer season. The enhanced plan allows the PUC to shut off the central air conditioner for an unlimited number of times for up to six (6) hours per occurrence during the summer season.

Multiple interruptions may occur on the same day and the PUC determines the length of time per interruption.

- Hours for which a program may operate range from 12:00 p.m. to 8:00 p.m. daily.

**Authority References:**

The following sections of the California Code of Regulations (CCR) Title 22 were reviewed and analyzed with respect to healthcare facilities participating in central air conditioning energy conservation programs.

- **CCR §70885 General Acute Care Hospitals**  
Heating, air conditioning and ventilating systems shall be maintained in operating condition to provide a comfortable temperature and to meet the new construction requirements in effect at the time plans were approved for the facility.
- **CCR §71657 Acute Psychiatric Hospital**  
Heating, air conditioning and ventilating systems shall be maintained in operating condition to provide a comfortable temperature and to meet the new construction requirements in effect at the time plans were approved for the facility.
- **CCR §72657 Skilled Nursing Facilities**  
Heating, air conditioning and ventilating systems shall be maintained in normal operating conditions to provide a comfortable temperature and shall meet the requirements of Section T-17-105, Title 24 California Administrative Code.

- **CCR §73655 Intermediate Care Facilities**  
Air conditioning and ventilating systems shall be maintained in normal operating conditions to provide a comfortable temperature and to meet the new construction requirements in effect at the time plans were approved for the facility.
- **CCR §76667 Intermediate Care Facilities for the Developmentally Disabled**
  - (a) Heating, air conditioning and ventilating systems shall be maintained in normal operating conditions to provide a comfortable temperature. These systems shall meet the construction requirements of Title 24 of the California Administrative Code in effect at the time plans were approved for the facility.
  - (b) Temperature and humidity shall be maintained within a normal comfort range by heating, air conditioning or other means. The heating apparatus employed shall not constitute a burn hazard to the clients.
- **CCR §76954 Intermediate Care Facilities/Developmentally Disabled - Habilitative**
  - (a) Heating, air conditioning and ventilating systems shall be maintained in normal operating conditions to provide a comfortable temperature.
  - (b) Temperature and humidity shall be maintained within a normal comfort range by heating, air conditioning or other means. The heating apparatus employed shall not constitute a burn hazard to the clients.
- **CCR §78507 (6) Adult Day Health Centers**
  - (a) Each center shall be clean, safe and in good repair at all times. Maintenance shall include provisions for cleaning and repair services which include, but are not limited to:
  - (6) Maintenance of heating, air conditioning and ventilating systems in normal operating condition.

**Conclusion:**

Based on the referenced sections of the CCR noted above and information collected from assessing various PUC central air conditioning energy conservation programs, the L&C Program determined that participation in programs that directly limit a facility's ability to control central air conditioning temperatures could jeopardize patient/resident safety. L&C cautions healthcare facilities to consider their liability to patients'/residents' health under conditions when no central air conditioning is available.

Imposed limitations on the availability of central air conditioning under extreme weather conditions would not be in the best interest of patients'/residents' healthcare needs. The CCR sections noted above frequently refer to "normal operating condition" and "comfortable temperature" which would be beyond a facility's control if the facility relinquishes direct control over its central air conditioning equipment.

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If a facility should elect to enroll in the aforementioned PUC energy conservation program, negative consequences to patients could subject the facility to enforcement action that can include the issuance of deficiencies and citations.

If you have questions related to this AFL, please contact your local L&C District Office.

Sincerely,

**Original Signed by Kathleen Billingsley, R.N.**

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Center for Healthcare Quality