



## LIFE SAFETY CONSULTING, LLC

State Licensing / Life Safety Code Compliance for Long Term Health Care NF, ALF, ICFMR & ADC

# We Didn't Know What We Didn't Know Management Summary

## Life Safety Surveys Are More Comprehensive and Thorough

When talking with health care facility managers, we frequently encounter the perception that the Life Safety Survey is a minor worry – typically just a few relatively minor citations to be dealt with by the maintenance staff. However, over the past several years, Life Safety surveys have become much more stringent in the State of Texas and some facility managers have been caught by surprise at the number and seriousness of the deficiencies that have been cited.

## What Happened? Thirty-One Fire Related Deaths in 2003

In 2003, fires at nursing homes in Hartford, Connecticut and in Nashville, Tennessee killed thirty-one residents. Provoked by public outrage at these deaths, Congress requested the Government Accountability Office (GAO) to conduct a study to determine the effectiveness of state and federal oversight of nursing home fire safety. The GAO found both State agencies and CMS oversight to be inadequate. Key findings were:

- ▶ **State surveyors routinely miss or fail to cite Life Safety Code deficiencies**
- ▶ **Some of the Life Safety deficiencies missed by state surveyors were so basic that it raised questions about surveyors' preparation or training**
- ▶ **The GAO raised questions about the thoroughness of state Life Safety Surveys**

## An Illustrative Example

EK Life Safety conducted a pre-survey inspection at a nursing home. The facility management's expectations were that our survey would take a couple of hours at most. We completed a comprehensive two-day survey covering the complete State Life Safety Code. Overall, we uncovered more than thirty potential deficiencies – *one of which was serious enough that a DADS surveyor would likely have cited the facility to be in immediate jeopardy.*

Not surprisingly, the facility's management was somewhat incredulous of our findings. We spent several hours with the management team discussing Life Safety concepts, reviewing written standards, and climbing ladders so management could see the deficiencies for themselves. They saw issues in their building that no one had ever looked at, and learned information that they had never been told. After discussing concepts and seeing deficiencies first hand, their conclusion was, "***We just didn't know what we didn't know.***" The management team immediately began to address what we had identified, both in preparation for their upcoming Life Safety survey and because they then understood and appreciated why Life Safety features were needed in the building for the safety of their residents.

## EK Life Safety Can Help!

Don't be caught unprepared. Visit our website for additional information on our services at [www.EKLifeSafety.com](http://www.EKLifeSafety.com). Or better yet, call us at (713) 298-2336. Our consultants will be more than happy to speak with you to discuss your particular situation.

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# **We Didn't Know What We Didn't Know About Life Safety**

## **But What We Didn't Know Could Have Hurt Us**

When discussing the topic of Life Safety with health care facility management, we frequently encounter the perception that the Life Safety Survey is a minor worry. We very often get this viewpoint from staff of existing facilities as well as owners of new facilities in the planning stage or under construction.

Of course, past experience has contributed to this mindset. The history was that, typically, the Life Safety Survey resulted in a small number of tags -- simply fix a door or two and change the light bulb in an Exit sign and all was fine. Major components were not always thoroughly inspected. For new building projects, the accepted thinking was, 'we have been designing and building this way for years, so it must be okay'. Although these perceptions were erroneous, there fortunately were no catastrophic fire events in Texas that forced a shift in this thinking.

If you have recently had a Life Safety Survey and were caught by surprise at the number and/or the seriousness of deficiencies that were cited, then you too are witness to the significant change in Life Safety Code enforcement. What caused this new level of enforcement?

### **What Happened? Thirty-One Fire Related Deaths in 2003**

In February 2003, a fire at the Greenwood Nursing Home in Hartford, Connecticut killed sixteen residents. Seven months later, a fire at the NHC Nursing Home in Nashville, Tennessee killed fifteen residents. Provoked by outrage over the thirty-one fire related deaths, Congress requested the Government Accountability Office (GAO) conduct a study to determine, among other concerns, the effectiveness of State and Federal oversight of nursing home fire safety. The GAO indeed found, "*State and federal oversight of nursing home compliance with Fire Safety Standards is inadequate*".<sup>1</sup>

In support of their conclusion, GAO's investigation on the issue of State and Federal oversight uncovered the following major weaknesses:

▶ **State surveyors routinely miss or fail to cite Life Safety Code deficiencies. The GAO reported:**

- ☛ "*The Hartford [Connecticut] facility was surveyed less than 1 month before the fire, and no violations of federal standards were identified.*" [This facility was cited for several Life Safety violations after the fire was investigated.]

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<sup>1</sup> Page 5, GAO-04-660 [Nursing Home Fire Safety](#), Recent Fires Highlight Weakness in Federal Standards and Oversight; July, 2004.



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- ☛ *“During routine fire safety surveys, Tennessee surveyors repeatedly failed to detect a deficiency that would allow smoke to travel between floors – a problem that may have contributed to the spread of smoke to upper floors where one-third of residents who died succumbed to smoke inhalation.”*
- ☛ *“Of the 40 comparative surveys that assessed fire safety standards in fiscal year 2003, federal surveyors identified on average more than two fire safety deficiencies per home that were either missed or not cited by state surveyors, but in one region the average number of such deficiencies was about five.”*

▶ **Some of the Life Safety deficiencies missed by state surveyors were so basic that they raised questions about surveyors’ preparation or training.** According to the GAO investigation:

- ☛ *State surveyors incorrectly classified nursing home construction types....*
- ☛ *State surveyors incorrectly surveyed additions and major renovations in facilities across the state by using less stringent federal standards that applied to the original nursing home structures.*
- ☛ *State surveyors failed to identify the lack of a fire-rated ceiling that would resist the spread of fire for 1 hour ....*
- ☛ *State surveyors failed to identify that approximately 80 percent of a home’s resident rooms had sidewall mounted sprinkler heads that would not work in the event of a fire ....*
- ☛ *State surveyors missed obvious fire safety deficiencies such as the use of plywood rather than drywall for corridor walls, unprotected hazardous areas, hollow core doors that were required to be solid, and facilities lacking fire alarms.*

▶ **The GAO also raised questions about the thoroughness of State Life Safety surveys.** They noted that in 2003, the national average duration for a Life Safety Survey conducted by a state was five hours. However, their analysis of CMS data indicated that in sixteen states, more than one-fourth of nursing home surveys occurred in two hours or less. One official commented that, “. . . conducting a fire safety survey involves more than simply walking through a nursing home.”

▶ **The GAO also took strong issue with CMS’s oversight of State agencies.** The GAO found that CMS did not fully comply with the statutory requirement to conduct federal monitoring [comparative] surveys. In fiscal year 2003, CMS conducted approximately one-twentieth of the number of comparative surveys required.

In fact, the GAO’s number one recommendation was that CMS regional offices substantially increase the number of Life Safety comparative surveys in accordance with the statutory requirement.



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### **What Changed? CMS Has Increased Comparative Surveys and Increased Expectations of State Surveys**

In addition to Life Safety surveys from DADS, facilities that are Medicare certified are now seventeen times more likely to encounter CMS Federal surveyors than in 2003. Anecdotal evidence from many facilities confirms a significant increase in CMS comparative survey activity, as well as a significant increase in thoroughness and enforcement level by CMS.

Furthermore, the increase in CMS survey activity combined with other Federal and State initiatives has driven an increased emphasis on improving the performance of DADS Life Safety surveyors. The State of Texas has taken steps to improve Life Safety survey diligence through enhanced training for surveyors and through efforts to develop consistent practices across its eleven regions. In addition, the number of Life Safety surveyors employed by DADS has increased, and in at least one region almost doubled.

### **All Long-Term Care Facility Types Are Being Affected**

Even though you may own or operate a facility that receives no CMS federal funding, there is still a high probability that your next DADS Life Safety Survey will be more thorough and comprehensive. The reality is that the DADS Life Safety Surveyors that inspect nursing facilities are the same surveyors that inspect all other DADS licensed facilities, including Assisted Living, ICF/MR, and Adult Day Care. Furthermore, most of the Life Safety concepts required in nursing facilities are identical or very similar to concepts required in other types of licensed facilities. The additional training and thoroughness used for nursing facilities is being applied to all facility types.

### **An Illustrative Example**

The increased emphasis on thorough and comprehensive Life Safety surveys is best illustrated by a pre-survey inspection recently completed by EK Life Safety Consulting. When we initially contacted this health care facility, the management essentially responded to our service offer with a “Thanks, but No Thanks” reply. Their thought process was that, for years, the facility had been cited for only a few minor deficiencies in Life Safety surveys – all of which were corrected within a few days. Hence, they saw no need for our service.

However, through conversations with colleagues at other facilities, they learned that Life Safety surveys had “suddenly” become more stringent. They changed their position and engaged EK Life Safety to conduct a pre-survey inspection of their facility “just to be safe”. The building maintenance manager was assigned to assist us, and the facility management’s expectations were that our survey would take a couple of hours at most. They didn’t understand our estimate of almost two full days.

We arrived at 8:30 and started with a review of their documentation which took approximately four hours. That afternoon, we tested the sprinkler system and the fire alarm system and began our physical inspection of the building. We checked all smoke barriers, fire-rated walls, smoke dampers, stairwells, elevators, smoke detectors, and resident rooms.



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The next day, we tested the generator and the Essential Electrical System, examined the kitchen and laundry room, and completed our inspection of the building and the outside grounds. Overall, we uncovered more than thirty potential deficiencies – *one of which was serious enough that a DADS Life Safety surveyor could easily have cited the facility to be in Immediate Jeopardy.*

Not surprisingly, the facility's management was taken aback and a bit incredulous of our findings. They remained unconvinced that the State Life Safety surveyors would be as "picky", since their past Life Safety surveys had only revealed very minor and very few deficiencies. We spent several hours with the management team discussing Life Safety concepts, looking at exact paragraphs in the State Licensing Standards and NFPA 101, and climbing ladders so management could see the deficiencies for themselves. It was an eye-opening experience for the management team. They saw issues in their building that no one had ever looked at, and learned information that they had never been told. Their first question was, "Why haven't our Life Safety surveyors looked at this in the past?" After discussing concepts and seeing deficiencies first hand, their conclusion was, "*We just didn't know what we didn't know.*"

The management team immediately began to address what we had identified, both in preparation for their upcoming Life Safety survey and because they then understood and appreciated why Life Safety features were needed in the building for the safety of their residents.

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