

ASPR TRACIE Technical Assistance Request

Response Date: 23 October 2019

Request:

The requestor contacted ASPR TRACIE and asked for clarification on the annual training requirement for long term care facilities (LTCs), noting:

- I have been advised that there is a new interpretation to what meets the annual training requirement. We have been providing training at the time of hire and then again once per year on a calendar basis. Now I am told that if we deliver training on Day X, 2018 we need to make sure that the training for 2019 occurs before Day X, 2019.
- Everything I have reviewed refers to an “annual” training, which by definition is once per year. In that case would we be correct in providing the training to our staff once per calendar year? I was also told the same applies to the annual exercise and the annual requirement for exercises—is this the case?

Response:

The ASPR TRACIE Team reached out to the Centers for Medicare & Medicaid (CMS) Quality, Safety & Oversight Group (QSOG) for further feedback related to the requestor’s requirement-specific questions. CMS provided the following response:

“The Emergency Preparedness requirements require Long Term Care Facilities to provide annual training to staff. As explained in our FAQs, The “annual” testing requirement will not be measured on a calendar year basis which is January 1 through December 31. The annual requirement will be measured from the date of the last actual emergency event or the date the exercise/testing took place. Based on your example, our expectation would that if training was provided on the date of hire, that the annual training would be conducted on or before the 1 year anniversary of the date of hire.

In regards to exercises, the same would apply to meet an annual requirements. If a facility conducts an exercise on October 23, 2018 and the next exercise must be on or before October 23, 2019 to be considered “annual”. This may pose a challenge for facilities which have state-coordinate full-scale exercises which in this instance may be scheduled for November 2019. In that scenario, the facility would be non-compliant if it waits until November 2019. We would encourage facilities to conduct an individual-facility based exercise, or if this wasn’t done in that annual or an exercise of choice (table top) if the full scale/individual was done that annual year to ensure compliance. Surveyors would generally be looking at your last exercise and looking back one year to see if the “annual” requirement is met.

Please also note, the testing requirements have been expanded beginning 11/29/2019, meaning:

(2) Testing. The LTC facility must conduct exercises to test the emergency plan at least twice per year, including unannounced staff drills using the emergency procedures. The LTC facility must do the following:

(i) Participate in an annual full-scale exercise that is community-based; or

(A) When a community-based exercise is not accessible, conduct an annual individual, facility-based functional exercise.

(B) If the LTC facility experiences an actual natural or man-made emergency that requires activation of the emergency plan, the LTC facility is exempt from engaging its next required a full-scale community-based or individual, facility-based functional exercise following the onset of the emergency event.

(ii) Conduct an additional annual exercise that may include, but is not limited to the following:

(A) A second full-scale exercise that is community-based or an individual, facility-based functional exercise; or

(B) A mock disaster drill; or

(C) A tabletop exercise or workshop that is led by a facilitator includes a group discussion, using a narrated, clinically-relevant emergency scenario, and a set of problem statements, directed messages, or prepared questions designed to challenge an emergency plan.

(iii) Analyze the LTC facility's response to and maintain documentation of all drills, tabletop exercises, and emergency events, and revise the LTC facility's emergency plan, as needed.

Reference: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/FAQ-Round-Three.pdf> ”

CMS-Specific Information

CMS published the [interpretive guidelines](#) and the State Operations Manual that addresses specific regulatory expectations. This is posted on their website (under the Downloads section):

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>.

ASPR TRACIE has developed and collected a number of resources that we encourage you to use and believe will help facilitate compliance, including the resources provided in this response.

However, this does not substitute review of the final rule text and interpretive guidelines. If you have specific questions about your facility's compliance, please review the interpretive guidelines, or contact your state's survey agency or the CMS Quality, Safety & Oversight Group (QSOG) at the following email address: QSOG_EmergencyPrep@cms.hhs.gov.

CMS and ASPR TRACIE are partnering to provide technical assistance and share resources and promising practices to help affected providers and suppliers start or update the documents mandated by the Emergency Preparedness Rule. Additional key resources include:

- The ASPR TRACIE dedicated CMS Rule page: <https://asprtracie.hhs.gov/cmsrule>
- The entire CMS Emergency Preparedness Rule: <https://federalregister.gov/a/2016-21404>
- The CMS Emergency Preparedness Survey and Certification Page: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>

- CMS has developed a [Quick Glance Table of the rule requirements by provider type](#), to highlight key points of the new Emergency Preparedness rule. **NOTE:** This table is not meant to be an exhaustive list of requirements nor should it serve as a substitute for the regulatory text.
- ASPR TRACIE developed a [CMS Emergency Preparedness \(EP\) Rule Resources at Your Fingertips Document](#). Within this document are links to key resources:
 - CMS' developed [frequently asked questions \(FAQ\) documents](#) that synthesizes answers to commonly asked inquiries about the CMS EP Rule.
 - The FAQs, in combination with the CMS [at-a-glance chart](#) and [Provider and Supplier Type Definitions Fact Sheet](#), can help planners identify and address planning gaps and facilitate compliance with the regulations.
 - Interested in learning more about your local healthcare coalition? [This chart](#) can help you identify the preparedness office of your state public health agency. Remember: the release of the CMS EP Rule provides healthcare coalitions a tremendous opportunity to strengthen relationships and leverage a broader group of personnel and resources to provide for the medical needs of the whole community during a disaster.
 - To review the Medicare Learning Network National Call on the EP Rule, you can access the PowerPoint [slides](#), [transcript](#), and [audio recording here](#).