

Loeb & Troper's *e-Bulletin*

NYSDOH 2011 New Construction Standards

Facilities undertaking new construction or major renovation and filing a Certificate of Need (CON) application after January 1, 2011, will have to conform with the revised DOH Standards of Construction and the 2010 edition of the Guidelines for Design and Construction of Health Care Facilities (FGI Guidelines). The interpretive guidance and definition of *major* renovation is under review by the Department of Health.

I. Background and Definition

Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of NY (NYCRR) Parts 711, 712, 713, 715 and 716 sets forth the architectural, engineering, equipment, construction, and physical environment standards for all health care facilities subject to DOH Public Law Article 28. *Effective December 29, 2010, 10 NYCRR Part 711 is revised.*

II. Revisions to General Standards of Construction

Section	Name/Area	Revisions
711.1	Applicability	<ul style="list-style-type: none"> Identifies health facilities subject to construction and physical environment standards as including, but not limited to: general hospitals, nursing homes and ambulatory care facilities. A functional program description, which is a detailed architectural and design plan for the facility, will include a description of the following: <ul style="list-style-type: none"> Scope/purpose of project Services necessary for complete operation of facility, the size and function of each space, special design features, projected occupant load, and numbers/types of staff, patients, residents, visitors and vendors Types/projected number of procedures to be performed, treatment areas and circulation patterns for staff, patients, residents and the public Infection control requirements for clean/soiled materials resulting from demand/utilization, staffing patterns, departmental relationships, space and circulation requirements
711.2	Pertinent Technical Standards	<ul style="list-style-type: none"> Requires health care facilities to comply with more current standards (41 codes/standards listed). The following have specific impact for facilities: <ul style="list-style-type: none"> <i>NPFA 101, Life Safety Code, 2000 edition</i> <i>2010 edition of Guidelines for Design and Construction of Health Care Facilities (see detailed description in FGI Guidelines)</i> <p>If a conflict occurs between the codes and standards listed in this section and elsewhere in the chapter, then compliance with the more restrictive regulation is required.</p>
711.3	Site Requirements	<ul style="list-style-type: none"> Establishes general site requirements for health care facilities, adds requirements for occupants and eliminates outdated site requirements.
711.9 New Section	Waivers and Approvals of Equivalent or Innovative Construction Standards	<ul style="list-style-type: none"> Delineates the specific elements required for requesting waivers of construction standards: <ul style="list-style-type: none"> regulatory standards for which waiver is sought; reasons for the waiver request; description of proposed alternative to comply with regulatory standard; description of physical areas affected by waiver; impact on function and safety of facility if waiver approved; and financial impact of proposed waiver alternative, if implemented.

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III. Revisions to Standards of Construction by Program Type

A. Nursing Home Facilities: Part 713

Part 713 is divided into four subparts based on the actual or anticipated date nursing home construction approval was or is to be undertaken. Nursing home construction projects approved by DOH prior to January 1, 2011, are required to comply with the existing standards in effect during the time: Part 713.1 — Projects completed or approved prior to August 25, 1975; Part 713.2 — Projects completed or approved between August 25, 1975 and July 1, 1990; Part 713.3 — Projects completed or approved between July 2, 1990 and December 31, 2010.

Part 713.4 sets forth minimum construction and physical environmental standards applicable to new construction and “to portions of nursing home facilities altered or renovated” pursuant to approval granted on and after January 1, 2011. To date, there is no interpretive guidance available on how “portions of nursing home facilities altered or renovated” are defined and thereby subject to the new standards promulgated under 713.4 and Chapters 4.1 (Common Elements for Residential Health Care Facilities) and 4.2 (Specific Requirements for Nursing Facilities) of the FGI Guidelines.

B. Adult Day Health Care Program Facilities: Part 714

Part 714 incorporates existing requirements previously found in Part 713 and is divided into four subparts based on the actual or anticipated date that the program facilities were or will be approved by DOH. Part 714.1 pertains to the applicability of Part 714 to facilities for adult day health care programs approved by DOH. Part 714.2 — ADHCP facilities approved to operate prior to March 17, 2004; Part 714.3 — ADHCP facilities approved to operate between March 17, 2004 and December 31, 2010.

Part 714.4 — ADHCPs approved on or after January 1, 2011 — Facility construction shall include the public, administrative and program areas defined in 714.4 and elements in Chapter 5.3 — Adult Day Health Care Facilities of the FGI Guidelines. Furthermore, ADHCP program facilities not located at a residential health care facility shall comply with the requirements of Chapter 16 — New Day Care Occupancies — of NFPA 101, Life Safety Code, 2000 edition.

C. Freestanding Ambulatory Care Facilities: Part 715

Part 715 is divided into two subparts based on the date when the ambulatory care facility construction was approved, constructed or will be undertaken.

Part 715.1 defines the standards for ambulatory projects approved or completed prior to January 1, 2011 and is further divided: Subpart 715.1.3 — Ambulatory care projects approved or completed prior to October 14, 1998; Subpart 715.1.4 — Ambulatory Medical Facility projects approved or completed between October 14, 1998 and December 31, 2010; and Subpart 715.5 — Ambulatory Surgery Facility projects approved or completed between October 14, 1998 and December 31, 2010.

Part 715.2 — Standards of Construction for Freestanding Ambulatory Care Facilities after December 31, 2010 — Sets forth the minimum construction and physical environment standards applicable to ambulatory care and ambulatory surgery facilities built and to portions of such facilities renovated or altered after December 31, 2010. Additionally, facilities shall comply with the applicable chapters of Part 3 — Ambulatory Care Facilities of the FGI Guidelines and the NFPA 101, Life Safety Code, 2000 edition.

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D. Guidelines for Design and Construction of Health Care Facilities — 2010 Edition (FGI Guidelines)

The FGI Guidelines have been adopted in part or in entirety in 42+ states. In 1998, the NYSDOH adopted the FGI Guidelines for hospitals and rehabilitation facilities. Following this positive experience and the dedicated and timely efforts necessary to revise the existing DOH regulations, the Department elected to adopt the FGI Guidelines for nursing homes, adult day health care programs and freestanding ambulatory care facilities. These guidelines are now referenced in the Standards of Construction after December 31, 2010. Major additions and revisions which will impact the construction of projects submitted after January 1, 2011, include:

- ◆ *1.2-3 — Infection Control Risk Assessment (ICRA)* — Multidisciplinary, documented assessment process intended to proactively identify and mitigate risks of infection that occur during construction activities. The assessment is to be conducted during the planning phase of the project, before construction begins, and continue during project construction and commissioning.
- ◆ *1.2-5 — Patient Handling and Movement Assessment* — Assessment conducted to direct/assist the design team in incorporating appropriate patient handling and movement of equipment into the health care environment. Secondly, there is a definition of space requirements and structural considerations to accommodate/incorporate the movement equipment.
- ◆ *1.2-8 — Commissioning* — Quality process used to achieve, validate and document that the facilities and component infrastructure systems are planned, constructed installed, tested and capable of being operated and maintained in conformity with the design intent. For example, the following systems should be tested: HVAC, plumbing, electrical, emergency power, fire protection, telecommunications, nurse call, medical gas, air balancing, exhaust, etc.

Furthermore, Chapter 4.4 contains specific requirements for assisted living facilities. The chapter identifies minimum requirements, recognizing that facilities must comply with applicable New York State code requirements.

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