

the governing body the opportunity to be involved in the daily operations of the provider. With current technology, including the governing body in the UR committee meetings may be accomplished via many avenues (for example, teleconferencing).

Comment: One commenter stated that the proposed regulations do not specify the frequency of the UR committee meeting. The organization believes that the rules before implementation of the BBA '97, which required a meeting at least every 14 days, were appropriate and should be in the new rule.

Response: We appreciate the commenter's suggestion, but we do not agree. Because there is no medical necessity for RNHCI UR committee meetings within certain time frames, we did not see a necessity to mandate these timeframes. Additionally, not mandating a timeframe for the frequency of UR committee meetings is less burdensome for the provider and can appropriately accommodate patient needs within an individual RNHCI.

C. National Fire Safety Protection Association

Condition of Participation: Life Safety From Fire § 403.744(a)(1)

Comment: The commenter commended us for our recognition of the National Fire Safety Protection Association as state-of-the-art technology in fire and life safety protection and the best method to provide continued health care fire safety to Medicare and Medicaid beneficiaries. The association applauded our reference of the 1997 edition of the Life Safety Code that, they stated, showed our commitment to Public Law 104-113, the "National Technology Transfer and Advancement Act of 1995" (requires Federal government agencies to use private sector, national consensus technology standards in carrying out public policy wherever appropriate).

Response: We appreciate the commenter's support. When we published the November 30, 1999 interim final rule, we required RNHCI to comply with the 1997 edition of the Life Safe Code, which, at that time, was the latest edition. Since that time, a new regulation was published updating the Life Safety Code for providers, including RNHCI. Therefore, we are now requiring RNHCI to comply with the 2000 edition of the Life Safety Code that we incorporated by reference in the final rule published in the **Federal Register** on January 10, 2003 (68 FR 1374). That rule became effective on March 11, 2003.

IV. Provisions of the Final Rule

For the most part, this final rule incorporates the provisions of the November 30, 1999 interim final rule. However, we are making the following minor changes to our regulations:

- We are making editorial changes to § 403.736(a)(3) to clarify our policy regarding the discharge planning evaluation. We are specifying that the discharge planning evaluation must be included in the patient's "care" record rather than the patient's "rights" record and specified that staff are required to discuss the results of the evaluation with the beneficiary.

- We are amending to § 403.738(a) to include that RNHCI must comply with Federal, State, and local laws pertaining to "privacy of individually identifiable health information (45 CFR part 164)."

- We are amending the introductory text of § 489.102 to add RNHCI among the list of providers that must maintain written policies and procedures concerning advance directives. In addition, we are adding that these advance directives must be maintained with respect to all adult individuals receiving medical care, "or patient care in the case of a patient in a religious nonmedical health care institution." We intended to make these changes in the interim final rule; however, they were not incorporated due to an error in our amendatory language.

- Section 1861(ss)(i) of the Act specifies the requirements that a Medicare or Medicaid provider must meet to satisfy the definition of a RNHCI. In addition, section 1866 of the Act requires that all providers of services under Medicare enter into a provider agreement with the Secretary and comply with other requirements specified in that section. Currently, all of the 16 not-for-profit Medicare/Medicaid RNHCI providers have provider agreements with CMS. In the November 30, 1999 interim final rule, we intended to revise the regulations to include RNHCI among the providers required to enter into provider agreements in accordance with the statute. These revisions were inadvertently omitted from the interim final rule. Therefore, in this final rule, we are revising the regulations at part 489 so that RNHCI are subject to the requirements regarding provider agreements and supplier approval. In addition we are revising regulations at part 498 to ensure the RNHCI access to the appeals process in the case of an adverse determination concerning continued participation in the Medicare program.

Additional Change Affecting the Rule

A final rule published on January 10, 2003 (68 FR 1374) revised § 403.744 that set forth the condition of participation for life safety from fire. That final rule amended the fire safety standards for most health care providers, including RNHCI. It adopted the 2000 edition of the Life Safety Code and eliminated references in our regulations to all earlier editions. The regulation became effective March 11, 2003. Since the rule published in January updated this provision, we are not republishing or making any additional changes to § 403.744 of the regulations.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of the issues for the provisions summarized below that contain information collection requirements:

Section 403.724 Valid Election Requirements

In summary, § 403.724(a)(1) requires an RNHCI to use a written election statement that includes the requirements set forth in this section.

The burden associated with this requirement is the one-time effort required to agree on the format for the election statement. It was estimated that it would take each RNHCI 2 hours to comply with these requirements. This was completed by the 16 RNHCI when they started participating in the program. We know of only one provider that is considering applying to participate; thus, there will be a possible total of 2 burden hours. There have been no new applications since the first providers transitioned into the RNHCI