NURSING HOMES: Provides relative to emergency preparedness among licensed nursing homes

AN ACT

To amend and reenact R.S. 40:2009.25 and to repeal R.S. 36:259(B)(28) and R.S. 40:2009.1, relative to nursing homes licensed by the Louisiana Department of Health; to provide relative to emergency preparedness among nursing homes; to provide requirements and standards for nursing home emergency preparedness plans; to provide procedures for and schedules by which nursing homes shall develop and submit such plans; to provide for duties of the Louisiana Department of Health and local offices of emergency preparedness with respect to nursing home emergency preparedness; to provide relative to sites to which nursing home residents may be evacuated; to revise laws creating and providing for the Nursing Home Emergency Preparedness Review Committee within the Louisiana Department of Health; to repeal laws creating and providing for a nursing home advisory committee within the Louisiana Department of Health; to provide for limitation of liability; to require promulgation of administrative rules; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2009.25 is hereby amended and reenacted to read as follows:
§2009.25. Emergency preparedness plans for nursing homes; applicable parishes; requirements; Nursing Home Emergency Preparedness Review Committee; rules and regulations; application

A. Due to the threat hurricanes pose to the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, and Vermilion, nursing homes located in these parishes shall develop an emergency preparedness plan which shall be submitted to the Louisiana Department of Health, bureau of health services financing, emergency preparedness manager, by August 1, 2006.

B. Each emergency preparedness plan shall be reviewed and updated by the nursing home annually. A summary of the updated plan shall be submitted to the Louisiana Department of Health, bureau of health services financing, emergency preparedness manager, by March first of each year. If the emergency preparedness plan is changed, modified, or amended by the nursing home during the year, a summary of the amended plan shall be submitted to the Louisiana Department of Health, bureau of health services financing, emergency preparedness manager, within thirty days of the amendment or modification.

C. Each summary of the emergency preparedness plan shall include and identify at a minimum:

(1) A primary sheltering host site outside the area of risk, verified by written agreements or contracts and any other alternative sheltering host sites that the nursing home may have;

(2) Proof of transportation or a contract with a transportation company, verified by a written transportation agreement or contract;

(3) Staffing patterns for evacuation, including contact information for such staff.
D. The secretary of the Louisiana Department of Health shall prescribe and publish, in accordance with the Administrative Procedure Act, criteria for evaluation of all emergency preparedness plans.

E. The Louisiana Department of Health shall:

1. Review the emergency preparedness plans.
2. Prepare findings from the collected information.
3. Share such findings with the Nursing Home Emergency Preparedness Review Committee.

F. There is hereby created in the Louisiana Department of Health the Nursing Home Emergency Preparedness Review Committee, hereinafter referred to in this Section as the "committee." The committee, which shall convene at least annually, shall be charged with reviewing the findings of the emergency preparedness plan submitted to the department under this Section, identifying risks and threats, identifying manpower issues for loading, transporting, and unloading residents, and developing recommendations for emergency preparedness plans to promote the health, safety, and welfare of nursing home residents. The committee shall be comprised of the following members:

1. The secretary of the Louisiana Department of Health or his designee.
2. The undersecretary of the Louisiana Department of Health or his designee.
3. The state health officer of the Louisiana Department of Health or his designee.
4. The Louisiana Department of Health, bureau of health services financing, emergency preparedness manager who shall serve as the chairperson of the committee.
5. Five persons appointed by the secretary of the Louisiana Department of Health who are directors or managers of the parish or local emergency preparedness offices.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(6) The secretary of the Department of Transportation and Development or his designee.

(7) The executive director of the Louisiana Nursing Home Association.

(8) The executive director of the Gulf States Association of Homes and Services for the Aging.

(9) Two persons appointed by the secretary of the Louisiana Department of Health who are either owners or administrators of nursing homes from the parishes listed in Subsection A of this Section.

(10) The nursing home ombudsman from the governor’s office of elderly affairs or his designee.

(11) The chair of the emergency preparedness committee of the Louisiana Nursing Home Association.

(12) The executive director of the Advocacy Center or his designee.

G. All members of the committee shall serve without compensation.

H. Any rule recommended or proposed by the committee shall be subject to the review and approval of the secretary, and if approved, shall be promulgated by the Louisiana Department of Health in accordance with the Administrative Procedure Act.

A. As used in this Section, the following terms have the meaning ascribed to them in this Subsection:

(1) "Department" means the Louisiana Department of Health.

(2) "Local office of emergency preparedness" means a parish office of homeland security and emergency preparedness established pursuant to R.S. 29:727.

(3) "Nursing home" means a nursing home or nursing facility as defined in R.S. 40:2009.2 which is licensed by the Louisiana Department of Health in accordance with the requirements of R.S. 40:2009.3.

B. Each nursing home shall continue to utilize its emergency preparedness plan that was in effect on March 1, 2022, until the process provided for in Subsection C or D of this Section, whichever is applicable, has been completed. However,
during this period, if a nursing home updates or amends its emergency preparedness plan pursuant to nursing home licensing rules in effect at the time, then the nursing home shall utilize the updated emergency preparedness plan until the process provided for in Subsection C or D of this Section, whichever is applicable, has been completed.


(2) Each nursing home located in a parish listed in Paragraph (1) of this Subsection shall develop an emergency preparedness plan that comports with the requirements of this Subsection. Each such plan shall include and identify, at a minimum, all of the following:

(a) A primary evacuation site and a secondary evacuation site, verified by one or more contracts or other written agreements, as well as any other alternative evacuation sites that the nursing home may have.

(b) Proof of transportation or a contract with a transportation company, verified by a written transportation agreement or contract.

(c) Staffing patterns for evacuation, including contact information for facility staff.

(d) Detailed provisions which address supply of emergency electrical power in instances when primary electrical power in the nursing home is lost but evacuation from the nursing home is not required.

(e) Any data, other information, documentation, or other content required by administrative rules of the department.

(3) Each nursing home located in a parish listed in Paragraph (1) of this Subsection shall submit a copy of its full, updated emergency preparedness plan to the department in electronic format. The emergency preparedness plan shall be
signed by the nursing home's owner or owners, or any designee of such parties, and
its administrator.

(4)(a) The department shall conduct a review of each nursing home
emergency preparedness plan submitted to it in accordance with Paragraph (3) of this
Subsection.

(b) The departmental review required by this Paragraph shall include
transmittal of each nursing home emergency preparedness plan to all of the following
entities for review by those entities:

(i) The office of state fire marshal.

(ii) The Governor's Office of Homeland Security and Emergency
Preparedness.

(iii) The Department of Transportation and Development.

(iv) The Louisiana Emergency Response Network.

(v) The local office of emergency preparedness of the parish in which the
nursing home is located.

(vi) The local office of emergency preparedness of any parish in which an
evacuation site, including any unlicensed sheltering site, as identified in the nursing
home's emergency preparedness plan is located.

(c) The departmental review required by this Paragraph may include
transmittal to any other local, parish, regional, or other state agencies or entities for
consultation as the department deems appropriate. Each such agency or entity shall
cooperate and contribute to the department's review and approval process.

(5) Each entity listed in Subparagraph (4)(b) of this Subsection shall review
each nursing home emergency preparedness plan submitted to it and shall submit one
of the following documents to the department within ninety days of receipt of the
emergency preparedness plan from the department:

(a) A letter of preliminary approval of the nursing home's emergency
preparedness plan.
(b) A letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

(6) Any entity listed in Subparagraph (4)(b) of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within ninety days of receipt of the plan shall be deemed to have granted preliminary approval to the plan.

(7) After review of a nursing home emergency preparedness plan and results of the review of the plan by the entities listed in Subparagraph (4)(b) of this Subsection, the department shall transmit in electronic format either of the following documents to the nursing home that submitted the plan:

(a) A notification letter communicating to the nursing home final approval of the emergency preparedness plan.

(b) A notification letter communicating to the nursing home all required changes, amendments, or other revisions to the emergency preparedness plan.

(8) Within fifteen days of receipt by the nursing home of an electronic notification from the department that requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

(9) Upon receipt of a nursing home's updated and revised emergency preparedness plan, the department shall confirm that all required changes, amendments, or revisions have been incorporated into the updated and revised emergency preparedness plan, and shall issue an approval letter to the nursing home for the emergency preparedness plan. If the required changes, amendments, or revisions have not been incorporated, the department shall issue a letter of rejection of the emergency preparedness plan to the nursing home. The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.
(10) Each nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the office of state fire marshal and the applicable local office or office of emergency preparedness. The nursing home shall submit the final, approved emergency preparedness plan in electronic format, if available, to the recipients listed in this Paragraph. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the office of state fire marshal and the applicable local office or office of emergency preparedness.

(11) The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Subparagraph (4)(b) of this Subsection shall be performed pursuant to the department's and those entities' respective areas of knowledge, expertise, or jurisdiction.

D.(1) The provisions of this Subsection shall apply to each nursing home located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Helena, Saint Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn.

(2) Each nursing home located in a parish listed in Paragraph (1) of this Subsection shall develop an emergency preparedness plan that comports with the requirements of this Subsection. Each such plan shall include and identify, at a minimum, all of the following:

(a) A primary evacuation site and a secondary evacuation site, verified by one or more contracts or other written agreements, as well as any other alternative evacuation sites that the nursing home may have.

(b) Proof of transportation or a contract with a transportation company, verified by a written transportation agreement or contract.
(c) Staffing patterns for evacuation, including contact information for facility
staff.

(d) Detailed provisions which address supply of emergency electrical power
in instances when primary electrical power in the nursing home is lost but evacuation
from the nursing home is not required.

(e) Any data, other information, documentation, or other content required by
administrative rules of the department.

(3) Each nursing home located in a parish listed in Paragraph (1) of this
Subsection shall submit a copy of its full, updated emergency preparedness plan to
the department in electronic format. The emergency preparedness plan shall be
signed by the nursing home's owner or owners, or any designee of such parties, and
its administrator.

(4)(a) The department shall conduct a review of each nursing home
emergency preparedness plan submitted to it in accordance with Paragraph (3) of this
Subsection.

(b) The departmental review required by this Paragraph shall include
transmittal of each nursing home emergency preparedness plan to all of the following
entities for review by those entities:

(i) The office of state fire marshal.

(ii) The Governor's Office of Homeland Security and Emergency
Preparedness.

(iii) The Department of Transportation and Development.

(iv) The Louisiana Emergency Response Network.

(v) The local office of emergency preparedness of the parish in which the
nursing home is located.

(vi) The local office of emergency preparedness of any parish in which an
evacuation site, including any unlicensed sheltering site, as identified in the nursing
home's emergency preparedness plan is located.
(c) The departmental review required by this Paragraph may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process.

(5) Each entity listed in Subparagraph (4)(b) of this Subsection shall review each nursing home emergency preparedness plan submitted to it and shall submit one of the following documents to the department within ninety days of receipt of the emergency preparedness plan from the department:

(a) A letter of preliminary approval of the nursing home's emergency preparedness plan.

(b) A letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

(6) Any entity listed in Subparagraph (4)(b) of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within ninety days of receipt of the plan shall be deemed to have granted preliminary approval to the plan.

(7) After review of a nursing home emergency preparedness plan and results of the review of the plan by the entities listed in Subparagraph (4)(b) of this Subsection, the department shall transmit in electronic format either of the following documents to the nursing home that submitted the plan:

(a) A notification letter communicating to the nursing home final approval of the emergency preparedness plan.

(b) A notification letter communicating to the nursing home all required changes, amendments, or other revisions to the emergency preparedness plan.

(8) Within fifteen days of receipt by the nursing home of an electronic notification from the department that requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes.
amendments, or revisions, and shall return a copy of the updated and revised
emergency preparedness plan to the department.

(9) Upon receipt of a nursing home's updated and revised emergency
preparedness plan, the department shall confirm that all required changes,
amendments, or revisions have been incorporated into the updated and revised
emergency preparedness plan, and shall issue an approval letter to the nursing home
for the emergency preparedness plan. If the required changes, amendments, or
revisions have not been incorporated, the department shall issue a letter of rejection
of the emergency preparedness plan to the nursing home. The department shall not
issue a license to or renew a license of a nursing home that has received a letter of
rejection of its emergency preparedness plan.

(10) Each nursing home shall transmit a copy of its final, approved
emergency preparedness plan and a copy of the approval letter from the department
to the office of state fire marshal and the applicable local office or office of
emergency preparedness. The nursing home shall submit the final, approved
emergency preparedness plan in electronic format, if available, to the recipients
listed in this Paragraph. If the nursing home received a letter of rejection from the
department, the nursing home shall transmit a copy of that letter to the office of state
fire marshal and the applicable local office or office of emergency preparedness.

(11) The review and approval of nursing home emergency preparedness
plans by the department and each entity listed in Subparagraph (4)(b) of this
Subsection shall be performed pursuant to the department's and those entities' respective areas of knowledge, expertise, or jurisdiction.

E.(1)(a) On or before October 31, 2023, and annually thereafter, each
nursing home located in a parish listed in Paragraph (C)(1) of this Section shall
review its emergency preparedness plan. In conducting the review required by this
Subparagraph, a nursing home shall consider any changes in state licensing rules and
regulations and any changes in federal rules and regulations for nursing homes
adopted since the date of its last review of its emergency preparedness plan.
(b) On or before October 31, 2024, and annually thereafter, each nursing home located in a parish listed in Paragraph (D)(1) of this Section shall review its emergency preparedness plan. In conducting the review required by this Subparagraph, a nursing home shall consider any changes in state licensing rules and regulations and any changes in federal rules and regulations for nursing homes adopted since the date of its last review of its emergency preparedness plan.

(2) If a nursing home conducts a review in accordance with Paragraph (1) of this Subsection and determines that no changes, modifications, or amendments to its emergency preparedness plan are necessary, then the nursing home shall notify all of the following entities of this determination on or before November first:

(a) The local office of emergency preparedness of the parish in which the nursing home is located.

(b) The local office of emergency preparedness of any parish in which a sheltering site, alternative sheltering site, or evacuation site, as identified in the nursing home's emergency preparedness plan, is located.

(c) The office of state fire marshal.

(d) The department.

(3)(a) Each notification required by Paragraph (2) of this Subsection shall be in the form of a written attestation signed by the owner or owners, or any designee of such parties, and the administrator of the nursing home submitting the notification. A nursing home may submit an attestation provided for in this Paragraph for no more than four consecutive years.

(b) If a nursing home has submitted an attestation provided for in Subparagraph (a) of this Paragraph for four consecutive years, then, in the year following its last submission, the nursing home shall furnish a full emergency preparedness plan in accordance with the procedures provided in Paragraphs (4) through (12) of this Subsection.

(4)(a) If a nursing home conducts a review in accordance with Paragraph (1) of this Subsection and determines that any changes, modifications, or amendments
to its emergency preparedness plan are necessary, or if a nursing home is required
by Subparagraph (3)(b) of this Subsection to furnish a full emergency preparedness
plan, then the nursing home shall submit its full emergency preparedness plan,
inclusive of any updates and revisions, to the department on or before November
first. The full emergency preparedness plan shall be signed by the nursing home's
owner or owners, or any designee of such parties, and its administrator.

(b) Each emergency preparedness plan shall include and identify, at a
minimum, the following:

(i) A primary evacuation site and a secondary evacuation site, verified by
one or more contracts or other written agreements, as well as any other alternative
evacuation sites that the nursing home may have.

(ii) Proof of transportation or a contract with a transportation company,
verified by written transportation agreement or contract.

(iii) Staffing patterns for evacuation, including contact information for
facility staff.

(iv) Detailed provisions which address supply of emergency electrical power
in instances when primary electrical power in the nursing home is lost but evacuation
from the nursing home is not required.

(v) Any data, other information, documentation, or other content required by
administrative rules of the department.

(5) The department shall conduct a review of each nursing home emergency
preparedness plan submitted to it in accordance with Subparagraph (4)(a) of this
Subsection.

(a) The departmental review required by this Paragraph shall include
transmittal of each nursing home emergency preparedness plan to all of the following
entities for review by those entities:

(i) The office of state fire marshal.

(ii) The Governor's Office of Homeland Security and Emergency
Preparedness.
(iii) The Department of Transportation and Development.

(iv) The Louisiana Emergency Response Network.

(v) The local office of emergency preparedness of the parish in which the nursing home is located.

(vi) The local office of emergency preparedness of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan is located.

(b) The departmental review required by this Paragraph may include
transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process.

(6) Each entity listed in Subparagraph (5)(b) of this Subsection shall review each nursing home emergency preparedness plan submitted to it and shall submit one of the following documents to the department within ninety days of receipt of the emergency preparedness plan from the department:

(a) A letter of preliminary approval of the nursing home's emergency preparedness plan.

(b) A letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

(7) Any entity listed in Subparagraph (5)(b) of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within ninety days of receipt of the plan shall be deemed to have granted preliminary approval to the plan.

(8) After review of a nursing home emergency preparedness plan and results of the review of the plan by the entities listed in Subparagraph (5)(b) of this Subsection, the department shall transmit in electronic format, on or before March first, either of the following documents to the nursing home that submitted the plan:

(a) A notification letter communicating to the nursing home final approval of the emergency preparedness plan.
(b) A notification letter communicating to the nursing home all required changes, amendments, or other revisions to the emergency preparedness plan.

(9) Within fifteen days of receipt by the nursing home of an electronic notification from the department that requires changes, amendments, or revisions to the nursing home’s emergency preparedness plan, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

(10) Upon receipt of a nursing home’s updated and revised emergency preparedness plan, the department shall confirm that all required changes, amendments, or revisions have been incorporated into the updated and revised emergency preparedness plan, and shall issue an approval letter to the nursing home for the emergency preparedness plan. If the required changes, amendments, or revisions have not been incorporated, the department shall issue a letter of rejection of the emergency preparedness plan to the nursing home. The department shall issue the approval letter or rejection letter required by this Paragraph on or before May fifteenth. The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

(11) On or before May thirty-first, each nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the office of state fire marshal and the applicable local office or office of emergency preparedness. The nursing home shall submit the final, approved emergency preparedness plan in electronic format, if available, to the recipients listed in this Paragraph. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the office of state fire marshal and the applicable local office or office of emergency preparedness on or before May thirty-first.

(12) The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Subparagraph (5)(b) of this
Subsection shall be performed pursuant to the department's and those entities' respective areas of knowledge, expertise, or jurisdiction.

F. With respect to emergency preparedness among nursing homes, the department shall do all of the following:

(1) After considering any recommendations provided by the Nursing Home Emergency Preparedness Review Committee, prescribe and publish, in accordance with the Administrative Procedure Act, rules pertaining to emergency preparedness by nursing homes. The rules shall include but not be limited to all of the following:

(a) Requirements for nursing homes relating to emergency preparedness.

(b) Requirements for the content of nursing home emergency preparedness plans.

(c) Requirements for the process by which the department reviews nursing home emergency preparedness plans.

(d) Procedures for addressing situations wherein a nursing home makes changes to its emergency preparedness plan on a schedule which deviates from that provided in Subsection E of this Section.

(e) Minimum requirements for nursing homes which serve as evacuation sites for other nursing homes.

(f) Minimum requirements for nonlicensed sheltering sites identified in nursing home emergency preparedness plans.

(g) Any rule recommended or proposed by the Nursing Home Emergency Preparedness Review Committee and approved by the secretary of the department.

(2) Review and approve nursing home emergency preparedness plans in accordance with its duly adopted rules and the applicable requirements of this Section.

(3) Prepare findings based upon its review of nursing home emergency preparedness plans, including any summaries of after-action reports as the secretary of the department deems appropriate, to present to the Nursing Home Emergency Preparedness Review Committee.
G.(1) The legislature hereby creates within the department the Nursing Home Emergency Preparedness Review Committee, referred to hereafter in this Subsection as the "committee." The committee shall be composed as provided in Paragraph (2) of this Subsection and shall convene at least annually. The purposes and duties of the committee shall include reviewing the findings of the department with respect to nursing home emergency preparedness plans submitted to the department in accordance with the requirements of this Section. From its review of such findings and summaries of after-action reports, the committee shall develop and provide to the department recommendations for licensing regulations which address risks and threats; manpower issues for loading, transporting, and unloading residents; evacuation site locations; and evacuation site staffing in order to promote the health, safety, and welfare of nursing home residents.

(2) The committee shall be composed of the following members, all of whom shall serve on the committee without compensation:

(a) The secretary of the department or his designee.

(b) The undersecretary of the department or his designee.

(c) The state health officer or his designee.

(d) The emergency preparedness manager of the health standards section of the department, who shall serve as the chairperson of the committee.

(e) Five members appointed by the secretary of the department who are directors or managers of parish or municipal offices of emergency preparedness.

(f) The secretary of the Department of Transportation and Development or his designee.

(g) The executive director of the Louisiana Nursing Home Association.

(h) The chairperson of the emergency preparedness committee of the Louisiana Nursing Home Association.

(i) The executive director of LeadingAge Gulf States.

(j) Six members appointed by the secretary of the department who are owners or administrators of nursing homes. The secretary shall select such members
in a manner that provides for geographic diversity among the facilities represented
by this member cohort.

(k) The long-term care ombudsman of the governor's office of elderly affairs
or his designee.

(l) The executive director of Disability Rights Louisiana or his designee.

(m) The director of the Governor's Office of Homeland Security and
Emergency Preparedness or his designee.

(n) The director of the Louisiana Medicaid program of the department or his
designee.

(o) The assistant secretary of the office of aging and adult services of the
department or his designee.

(3) Any rule recommended or proposed by the committee shall be subject
to review by and approval of the secretary of the department. If approved by the
secretary, the department shall promulgate the rule in accordance with the
Administrative Procedure Act.

H.(1) Each nursing home's emergency preparedness plan shall identify at a
minimum a primary evacuation site location and a secondary evacuation site location
for emergencies or disasters. Such evacuation site locations may include the
premises of other licensed nursing homes, nonlicensed sheltering sites, or both.

(2)(a) The local office of emergency preparedness of the parish in which a
nonlicensed sheltering site is located shall inspect the site prior to October 15, 2022,
and annually thereafter. The office shall inspect any new nonlicensed sheltering site
identified after May 31, 2023, in a nursing home emergency preparedness plan
within thirty days of receiving the plan and annually thereafter. The office may
inspect the nonlicensed sheltering site at such other times as the director of the office
deems necessary or appropriate.

(b) On an annual basis, and whenever requested by the secretary of the
department, the office of state fire marshal shall inspect each nonlicensed sheltering
site identified in a nursing home emergency preparedness plan to determine the
suitability and capacity of the site. The office of state fire marshal may inspect the
nonlicensed sheltering site at other times as it deems necessary or appropriate.

(c) On an annual basis, the department shall inspect and survey nonlicensed
sheltering sites identified in nursing home emergency preparedness plans. The
purpose of such inspections and surveys shall be to determine the appropriateness
and suitability of the site and whether it can comply with requirements for nursing
home evacuations before, during, and after an evacuation. Any refusal by a
nonlicensed sheltering site to allow an inspection or survey of the site by the
department may result in disqualification of the nonlicensed sheltering site. If such
a refusal to allow an inspection or survey occurs when nursing home residents are
being sheltered at the site, the department may revoke the license of the nursing
home that evacuated residents to the site.

(d) Any nursing home that decides to evacuate residents to a nonlicensed
sheltering site shall notify the department of this decision within one hour of the
decision being made. Upon receipt of such notification, the department's licensing
section and the office of public health shall conduct a site visit at the nonlicensed
sheltering site unless time, weather conditions, or other factors do not allow for such
visit. The department may conduct onsite inspections of the nonlicensed shelter site
at any time deemed necessary or appropriate by the secretary of the department. Such
authority of the department shall be in addition to its authority to conduct onsite
surveys of the licensed nursing home, regardless of location.

(e) If any non-licensed sheltering site is located outside of Louisiana, the
office of state fire marshal and the department shall coordinate with their state
agency counterparts in the state in which the site is located for inspection, review,
approval, and surveys of the site.

I.(1) Neither the state, the department, the Department of Transportation and
Development, the office of state fire marshal, nor the Governor's Office of Homeland
Security and Emergency Preparedness nor, except in the case of willful misconduct,
any employee or representative of such entities and offices, engaged in the
emergency preparedness activities and responsibilities as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The state and all departments, employees, and representatives thereof shall be immune from any claim based upon the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

(2) Except in the case of willful misconduct, no member of the Nursing Home Emergency Preparedness Review Committee engaged in the emergency preparedness activities and responsibilities as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The members of the Nursing Home Emergency Preparedness Review Committee shall be immune from any claim based upon the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

(3) Neither the local office of emergency preparedness, nor, except in the case of willful misconduct, any employee or representative of the local office of emergency preparedness, engaged in the emergency preparedness activities and responsibilities as established in this Section, or in the rules and regulations promulgated pursuant to the provisions of this Section, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The local office of emergency preparedness and its employees and representatives shall be immune from any claim based on the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

(4)(a) For purposes of this Paragraph, "LERN" means the Louisiana Emergency Response Network established and provided for in Chapter 34 of this Title.
(b) Neither LERN nor the LERN board, nor, except in the case of willful misconduct, any board member, employee or representative of LERN or the LERN board, engaged in the emergency preparedness activities and responsibilities as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. LERN, the LERN board, and the employees and representatives of LERN and the LERN board shall be immune from any claim based on the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

J.(1) Nothing in this Section shall be construed to prohibit the department from taking action against a nursing home for a deficiency cited during an emergency or disaster.

(2) Implementation and execution of an emergency preparedness plan shall be the duty and responsibility of the nursing home.

K. The provisions of this Section shall be in addition to all other licensing and certification laws, standards, rules, and regulations for nursing homes.

Section 2. R.S. 36:259(B)(28) and R.S. 40:2009.1 are hereby repealed in their entirety.

Section 3.(A) Each licensed nursing home located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Mary, Saint Martin, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion shall develop the emergency preparedness plan required by the provisions of R.S. 40:2009.25(C)(2), as enacted by Section 1 of this Act, on or before August 30, 2022.

(B) Each licensed nursing home located in a parish listed in Subsection (A) of this Section shall submit copies of its emergency preparedness plan in accordance with the requirements of R.S. 40:2009.25(C)(3), as enacted by Section 1 of this Act, on or before September 1, 2022.
(C) The Louisiana Department of Health shall transmit to licensed nursing homes all notification letters required by the provisions of R.S. 40:2009.25(C)(7), as enacted by Section 1 of this Act, on or before March 1, 2023.

(D) The Louisiana Department of Health shall transmit to licensed nursing homes all approval and rejection letters required by the provisions of R.S. 40:2009.25(C)(9), as enacted by Section 1 of this Act, on or before May 15, 2023.

(E) Each licensed nursing home located in a parish listed in Subsection (A) of this Section shall perform the duties relative to its emergency preparedness plan required by the provisions of R.S. 40:2009.25(C)(10), as enacted by Section 1 of this Act, on or before May 31, 2023.

Section 4.(A) Each licensed nursing home located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Helena, Saint Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn shall develop the emergency preparedness plan required by the provisions of R.S. 40:2009.25(D)(2), as enacted by Section 1 of this Act, on or before August 30, 2023.

(B) Each licensed nursing home located in a parish listed in Subsection (A) of this Section shall submit copies of its emergency preparedness plan in accordance with the requirements of R.S. 40:2009.25(D)(3), as enacted by Section 1 of this Act, on or before September 1, 2023.

(C) The Louisiana Department of Health shall transmit to licensed nursing homes all notification letters required by the provisions of R.S. 40:2009.25(D)(7), as enacted by Section 1 of this Act, on or before March 1, 2024.

(D) The Louisiana Department of Health shall transmit to licensed nursing homes all approval and rejection letters required by the provisions of R.S. 40:2009.25(D)(9), as enacted by Section 1 of this Act, on or before May 15, 2024.
(E) Each licensed nursing home located in a parish listed in Subsection (A) of this Section shall perform the duties relative to its emergency preparedness plan required by the provisions of R.S. 40:2009.25(D)(10), as enacted by Section 1 of this Act, on or before May 31, 2024.

Section 5. The Louisiana Department of Health may initially promulgate any rules required by the provisions of Section 1 of this Act as emergency rules in accordance with R.S. 49:953.1.

Section 6. Any employees required by the Louisiana Department of Health for the implementation and execution of the provisions of this Act shall be filled utilizing existing department vacancies and associated funding.

Section 7. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 933 Re-Reengrossed 2022 Regular Session Stagni

Abstract: Effects a comprehensive revision of laws relating to emergency preparedness by and among state-licensed nursing homes.

Proposed law repeals and replaces present law addressing emergency preparedness by and among nursing homes licensed by the La. Department of Health (LDH).

Proposed law requires nursing homes to continue to utilize the emergency preparedness plans that were in effect on March 1, 2022, until the process for creation of new emergency preparedness plans provided for in proposed law has been completed. Provides, however, that if a nursing home updates or amends its emergency preparedness plan pursuant to present administrative rule, then the nursing home shall utilize the updated emergency preparedness plan until the process for creation of its new emergency preparedness plan provided for in proposed law has been completed.

Proposed law establishes the following schedule for creation of new emergency preparedness plans by licensed nursing homes located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Mary, Saint Martin, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion:

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(1) On or before August 30, 2022: Each nursing home located in one of the 22 parishes listed above shall develop a new emergency preparedness plan.

(2) On or before September 1, 2022: Each nursing home located in a listed parish shall submit its new emergency preparedness plan to LDH.

(3) On or before March 1, 2023: LDH shall transmit to each nursing home in a listed parish from which it received an emergency preparedness plan a notification letter communicating either final approval of the plan or requirements for revisions to the plan.

(4) On or before May 15, 2023: LDH shall transmit to each nursing home in a listed parish from which it received a revised emergency preparedness plan a letter approving or rejecting the revised plan.

(5) On or before May 31, 2023: Each nursing home located in a listed parish shall transmit to the office of state fire marshal and the applicable local office or office of emergency preparedness either of the following

(a) Its final, approved emergency preparedness plan and a copy of the LDH approval letter.

(b) Its letter of rejection of its emergency preparedness plan received from LDH.

Proposed law establishes the following schedule for creation of new emergency preparedness plans by licensed nursing homes located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Richland, Sabine, Saint Helena, Saint Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn:

(1) On or before August 30, 2023: Each nursing home located in one of the 42 parishes listed above shall develop a new emergency preparedness plan.

(2) On or before September 1, 2023: Each nursing home located in a listed parish shall submit its new emergency preparedness plan to LDH.

(3) On or before March 1, 2024: LDH shall transmit to each nursing home in a listed parish from which it received an emergency preparedness plan a notification letter communicating either final approval of the plan or requirements for revisions to the plan.

(4) On or before May 15, 2024: LDH shall transmit to each nursing home in a listed parish from which it received a revised emergency preparedness plan a letter approving or rejecting the revised plan.

(5) On or before May 31, 2024: Each nursing home located in a listed parish shall transmit to the office of state fire marshal and the applicable local office or office of emergency preparedness either of the following

(a) Its final, approved emergency preparedness plan and a copy of the LDH approval letter.

(b) Its letter of rejection of its emergency preparedness plan received from LDH.
Proposed law establishes a schedule, procedures, and requirements relative to production of future versions of a nursing home's emergency preparedness plan after its first plan required by proposed law is fully developed.

Proposed law stipulates that review and approval of nursing home emergency preparedness plans by LDH and other state and local agencies with which LDH consults regarding such plans shall be performed pursuant to the department's and those agencies' respective areas of knowledge, expertise, or jurisdiction.

Proposed law prohibits LDH from issuing a license to or renewing a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

Proposed law requires LDH to promulgate administrative rules relative to emergency preparedness by nursing homes. Provides that such rules shall include but not be limited to all of the following:

1. Requirements for nursing homes relating to emergency preparedness.
2. Requirements for the content of nursing home emergency preparedness plans.
3. Requirements for the process by which the department reviews nursing home emergency preparedness plans.
4. Procedures for addressing situations wherein a nursing home makes changes to its emergency preparedness plan on a schedule which deviates from that provided in proposed law.
5. Minimum requirements for nursing homes which serve as evacuation sites for other nursing homes.
6. Minimum requirements for nonlicensed sheltering sites identified in nursing home emergency preparedness plans.
7. Any rule recommended or proposed by the Nursing Home Emergency Preparedness Review Committee and approved by the secretary of the department.

Proposed law authorizes LDH to initially promulgate any rules required by proposed law as emergency rules in accordance with present law relative to emergency rulemaking (R.S. 49:953.1).

Proposed law revises the membership of the 17-member Nursing Home Emergency Preparedness Review Committee provided for in present law by adding to the committee the following seven members:

1. Four members appointed by the secretary of LDH who are owners or administrators of nursing homes.
2. The director of the Governor's Office of Homeland Security and Emergency Preparedness or his designee.
3. The director of the La. Medicaid program or his designee.
4. The assistant secretary of the LDH office of aging and adult services or his designee.

Proposed law provides requirements and standards relative to nonlicensed sheltering sites that nursing homes identify in emergency preparedness plans. Authorizes and provides for inspections of such sites by LDH, the office of state fire marshal, and local offices of emergency preparedness.
Proposed law stipulates that any refusal by a nonlicensed sheltering site to allow an inspection or survey of the site by LDH may result in disqualification of the site. Provides that if such a refusal to allow an inspection or survey occurs when nursing home residents are being sheltered at the site, then LDH may revoke the license of the nursing home that evacuated residents to the site.

Proposed law requires any nursing home that decides to evacuate residents to a nonlicensed sheltering site to notify LDH of this decision within one hour of the decision being made. Provides that upon receipt of such notification, the LDH licensing section and office of public health shall conduct a site visit at the site unless time, weather conditions, or other factors do not allow for such visit. Authorizes LDH to conduct onsite inspections of the site at any time deemed necessary or appropriate by the secretary of the department.

Proposed law provides, except in cases of willful misconduct, a limitation of liability for the state, LDH, the Dept. of Transportation and Development, the state fire marshal, the Governor's Office of Homeland Security and Emergency Preparedness, the La. Emergency Response Network, and employees of such entities, local offices of emergency preparedness, and members of the Nursing Home Emergency Preparedness Review Committee associated with engaging in the activities and responsibilities provided for in proposed law.

Proposed law provides that implementation and execution of an emergency preparedness plan shall be the duty and responsibility of the nursing home.

Proposed law repeals present law creating and providing for an 11-member nursing home advisory committee within LDH.

Proposed law provides that any staff positions required by LDH for the implementation of proposed law be filled utilizing existing department vacancies and associated funding.

Effective upon signature of governor or lapse of time for gubernatorial action.


Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise the procedures and schedules for creation of new emergency preparedness plans by licensed nursing homes; for review of such plans by local offices of emergency preparedness and other agencies; and for review and approval of such plans by LDH.

2. Delete proposed law exempting certain material from disclosure pursuant to present law relative to public records (R.S. 44:1 et seq.).

3. Stipulate that review and approval of nursing home emergency preparedness plans by LDH and other state and local agencies with which LDH consults regarding such plans shall be performed pursuant to the department's and those agencies' respective areas of knowledge, expertise, or jurisdiction.

4. Provide that implementation and execution of an emergency preparedness plan shall be the duty and responsibility of the nursing home.

5. Require LDH to implement a program for electronic submission of nursing home emergency preparedness plans no later than Sept. 1, 2023.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
1. Add provision requiring each emergency preparedness plan adopted pursuant to proposed law to address the supply of emergency electrical power in instances when primary power in the nursing home is lost but evacuation from the nursing home is not required.

2. Add provision prohibiting LDH from issuing or renewing a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

3. Require emergency preparedness plans adopted after initial implementation of proposed law to contain the same information as the initial plan adopted pursuant to proposed law.

4. Add provision requiring the fire marshal to coordinate with out-of-state counterparts for inspection, review, approval, and surveys under proposed law of out-of-state non-licensed sheltering sites identified in proposed emergency preparedness plans.

5. Add waivers of liability the Dept. of Transportation and Development, the office of state fire marshal, the Governor's Office of Homeland Security and Emergency Preparedness, and the La. Emergency Response Network, and employees of such entities, for emergency preparedness activities and responsibilities pursuant to proposed law in the event of death or injury or damage to property as a result of such activities.

6. Add requirement that any employees needed by LDH for the implementation and execution of proposed law shall be filled utilizing existing department vacancies and associated funding.

7. Remove provisions requiring the rules of the dept. to include requirements, timelines, and procedures for after-action reports.

The House Floor Amendments to the reengrossed bill:

1. Delete proposed law requiring LDH to implement a program for electronic submission of nursing home emergency preparedness plans.

2. Make a technical change.