

2022 Regular Session

HOUSE BILL NO. 933

BY REPRESENTATIVE STAGNI

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

1 AN ACT

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

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 40:2009.25 is hereby amended and reenacted to read as follows:

1 §2009.25. Emergency preparedness plans for nursing homes; ~~applicable parishes;~~
2 requirements; Nursing Home Emergency Preparedness Review Committee;
3 rules and regulations; ~~application~~

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

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

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

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

24 (2) ~~Proof of transportation or a contract with a transportation company,~~
25 ~~verified by a written transportation agreement or contract.~~

26 (3) ~~Staffing patterns for evacuation, including contact information for such~~
27 ~~staff.~~

1 ~~D. The secretary of the Louisiana Department of Health shall prescribe and~~
2 ~~publish, in accordance with the Administrative Procedure Act, criteria for evaluation~~
3 ~~of all emergency preparedness plans.~~

4 ~~E. The Louisiana Department of Health shall:~~

5 ~~(1) Review the emergency preparedness plans.~~

6 ~~(2) Prepare findings from the collected information.~~

7 ~~(3) Share such findings with the Nursing Home Emergency Preparedness~~
8 ~~Review Committee.~~

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

18 ~~(1) The secretary of the Louisiana Department of Health or his designee.~~

19 ~~(2) The undersecretary of the Louisiana Department of Health or his~~
20 ~~designee.~~

21 ~~(3) The state health officer of the Louisiana Department of Health or his~~
22 ~~designee.~~

23 ~~(4) The Louisiana Department of Health, bureau of health services financing,~~
24 ~~emergency preparedness manager who shall serve as the chairperson of the~~
25 ~~committee.~~

26 ~~(5) Five persons appointed by the secretary of the Louisiana Department of~~
27 ~~Health who are directors or managers of the parish or local emergency preparedness~~
28 ~~offices.~~

1 ~~(6) The secretary of the Department of Transportation and Development or~~
2 ~~his designee.~~

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

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

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

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

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

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

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

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

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

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

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

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

27 B. Each nursing home shall continue to utilize its emergency preparedness
28 plan that was in effect on March 1, 2022, until the process provided for in Subsection
29 C or D of this Section, whichever is applicable, has been completed. However,

1 during this period, if a nursing home updates or amends its emergency preparedness
2 plan pursuant to nursing home licensing rules in effect at the time, then the nursing
3 home shall utilize the updated emergency preparedness plan until the process
4 provided for in Subsection C or D of this Section, whichever is applicable, has been
5 completed.

6 C.(1) The provisions of this Subsection shall apply to each nursing home
7 located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron,
8 Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, Saint
9 Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Martin, Saint
10 Mary, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion.

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

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

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

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

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

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

27 (3) Each nursing home located in a parish listed in Paragraph (1) of this
28 Subsection shall submit a copy of its full, updated emergency preparedness plan to
29 the department in electronic format. The emergency preparedness plan shall be

1 signed by the nursing home's owner or owners, or any designee of such parties, and
2 its administrator.

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

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

9 (i) The office of state fire marshal.

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

12 (iii) The Department of Transportation and Development.

13 (iv) The Louisiana Emergency Response Network.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (i) The office of state fire marshal.

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

22 (iii) The Department of Transportation and Development.

23 (iv) The Louisiana Emergency Response Network.

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

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

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

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

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

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

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

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

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

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

25 (8) Within fifteen days of receipt by the nursing home of an electronic
26 notification from the department that requires changes, amendments, or revisions to
27 the nursing home's emergency preparedness plan, the nursing home shall update and
28 revise its emergency preparedness plan to incorporate the required changes,

1 amendments, or revisions, and shall return a copy of the updated and revised
2 emergency preparedness plan to the department.

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

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

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

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

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

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

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

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

16 (c) The office of state fire marshal.

17 (d) The department.

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

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

28 (4)(a) If a nursing home conducts a review in accordance with Paragraph (1)
29 of this Subsection and determines that any changes, modifications, or amendments

1 to its emergency preparedness plan are necessary, or if a nursing home is required
2 by Subparagraph (3)(b) of this Subsection to furnish a full emergency preparedness
3 plan, then the nursing home shall submit its full emergency preparedness plan,
4 inclusive of any updates and revisions, to the department on or before November
5 first. The full emergency preparedness plan shall be signed by the nursing home's
6 owner or owners, or any designee of such parties, and its administrator.

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

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

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

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

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

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

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

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

27 (i) The office of state fire marshal.

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

1 (iii) The Department of Transportation and Development.

2 (iv) The Louisiana Emergency Response Network.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (12) The review and approval of nursing home emergency preparedness
29 plans by the department and each entity listed in Subparagraph (5)(b) of this

1 Subsection shall be performed pursuant to the department's and those entities'
2 respective areas of knowledge, expertise, or jurisdiction.

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

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

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

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

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

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

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

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

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

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

26 (3) Prepare findings based upon its review of nursing home emergency
27 preparedness plans, including any summaries of after-action reports as the secretary
28 of the department deems appropriate, to present to the Nursing Home Emergency
29 Preparedness Review Committee.

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

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

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

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

17 (c) The state health officer or his designee.

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

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

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

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

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

27 (i) The executive director of LeadingAge Gulf States.

28 (j) Six members appointed by the secretary of the department who are
29 owners or administrators of nursing homes. The secretary shall select such members

1 in a manner that provides for geographic diversity among the facilities represented
2 by this member cohort.

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

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

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

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

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

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

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

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

27 (b) On an annual basis, and whenever requested by the secretary of the
28 department, the office of state fire marshal shall inspect each nonlicensed sheltering
29 site identified in a nursing home emergency preparedness plan to determine the

1 suitability and capacity of the site. The office of state fire marshal may inspect the
2 nonlicensed sheltering site at other times as it deems necessary or appropriate.

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

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

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

26 I.(1) Neither the state, the department, the Department of Transportation and
27 Development, the office of state fire marshal, nor the Governor's Office of Homeland
28 Security and Emergency Preparedness nor, except in the case of willful misconduct,
29 any employee or representative of such entities and offices, engaged in the

1 emergency preparedness activities and responsibilities as established in this Section
2 or in the rules and regulations promulgated pursuant to the provisions of this Section,
3 shall be liable for the death of or any injury to persons or damage to property as a
4 result of such activity. The state and all departments, employees, and representatives
5 thereof shall be immune from any claim based upon the exercise or performance of,
6 or the failure to exercise or perform, the duties as established in this Section or in the
7 rules and regulations promulgated pursuant to the provisions of this Section.

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

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

27 (4)(a) For purposes of this Paragraph, "LERN" means the Louisiana
28 Emergency Response Network established and provided for in Chapter 34 of this
29 Title.

1 (b) Neither LERN nor the LERN board, nor, except in the case of willful
2 misconduct, any board member, employee or representative of LERN or the LERN
3 board, engaged in the emergency preparedness activities and responsibilities as
4 established in this Section or in the rules and regulations promulgated pursuant to the
5 provisions of this Section, shall be liable for the death of or any injury to persons or
6 damage to property as a result of such activity. LERN, the LERN board, and the
7 employees and representatives of LERN and the LERN board shall be immune from
8 any claim based on the exercise or performance of, or the failure to exercise or
9 perform, the duties as established in this Section or in the rules and regulations
10 promulgated pursuant to the provisions of this Section.

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

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

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

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

20 Section 3.(A) Each licensed nursing home located in the parishes of Acadia,
21 Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette,
22 Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the
23 Baptist, Saint Mary, Saint Martin, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion
24 shall develop the emergency preparedness plan required by the provisions of R.S.
25 40:2009.25(C)(2), as enacted by Section 1 of this Act, on or before August 30, 2022.

26 (B) Each licensed nursing home located in a parish listed in Subsection (A) of this
27 Section shall submit copies of its emergency preparedness plan in accordance with the
28 requirements of R.S. 40:2009.25(C)(3), as enacted by Section 1 of this Act, on or before
29 September 1, 2022.

1 (C) The Louisiana Department of Health shall transmit to licensed nursing homes
2 all notification letters required by the provisions of R.S. 40:2009.25(C)(7), as enacted by
3 Section 1 of this Act, on or before March 1, 2023.

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

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

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

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

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

27 (D) The Louisiana Department of Health shall transmit to licensed nursing homes
28 all approval and rejection letters required by the provisions of R.S. 40:2009.25(D)(9), as
29 enacted by Section 1 of this Act, on or before May 15, 2024.

1 (E) Each licensed nursing home located in a parish listed in Subsection (A) of this
 2 Section shall perform the duties relative to its emergency preparedness plan required by the
 3 provisions of R.S. 40:2009.25(D)(10), as enacted by Section 1 of this Act, on or before May
 4 31, 2024.

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

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

11 Section 7. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 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:

- (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, 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:

- (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.

(Amends R.S. 40:2009.25; Repeals R.S. 36:259(B)(28) and R.S. 40:2009.1)

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:

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.