
DIGEST

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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.