

2022 Regular Session

HOUSE BILL NO. 933

BY REPRESENTATIVE STAGNI

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

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AN ACT

To amend and reenact R.S. 40:2009.25 and R.S. 44:4.1(B)(26) 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 require nursing homes to produce certain reports pursuant to disasters and other emergency events; 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 exempt certain material from disclosure pursuant to the Public Records Law; 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:

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) "After-action report" means a written report by a nursing home attesting
22 to its degree of adherence to its emergency preparedness plan and discussing the
23 execution and implementation of that plan during a disaster event or other
24 emergency.

25 (2) "Department" means the Louisiana Department of Health.

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

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

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

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

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

21 (a) A primary evacuation site, verified by written agreements or contracts,
22 and any other alternative evacuation sites that the nursing home may have.

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

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

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

1 (3) Each nursing home located in a parish listed in Paragraph (1) of this
2 Subsection shall submit a copy of its emergency preparedness plan, in electronic
3 format if available, to all of the following entities:

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

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

9 (4) Each local office of emergency preparedness that receives an emergency
10 preparedness plan from a nursing home shall review the plan and shall report any
11 significant concerns or recommendations regarding the plan in writing to the nursing
12 home. If the local office of emergency preparedness has no significant concerns or
13 recommendations regarding the plan, then it shall communicate that finding in
14 writing to the nursing home. All written communication required by this Paragraph
15 shall be in electronic format if available.

16 (5) Each nursing home located in a parish listed in Paragraph (1) of this
17 Subsection shall update and revise its emergency preparedness plan to address and
18 incorporate all recommendations that it receives from a local office of emergency
19 preparedness pursuant to the procedure provided in Paragraph (4) of this Subsection.
20 Each nursing home that updates and revises its emergency preparedness plan as
21 required by this Paragraph shall provide written notification of such revisions to the
22 local office of emergency preparedness that recommended the revisions.

23 (6) Each nursing home located in a parish listed in Paragraph (1) of this
24 Subsection shall submit a copy of the full, updated emergency preparedness plan to
25 the department in electronic format. In addition to the plan, the nursing home's
26 electronic submission to the department shall include all of the following:

27 (a) An executive summary document, signed by the nursing home's owner
28 or owners and its administrator, summarizing the ways in which the nursing home

1 addressed and incorporated within its emergency preparedness plan any
2 recommendations submitted by a local office of emergency preparedness.

3 (b) Each written notification furnished by a local office of emergency
4 preparedness to the nursing home in accordance with Paragraph (4) of this
5 Subsection.

6 (c) Each written notification transmitted by the nursing home to a local
7 office of emergency preparedness in accordance with Paragraph (5) of this
8 Subsection.

9 (7) The department shall conduct a review of each nursing home emergency
10 preparedness plan submitted to it in accordance with Paragraph (6) of this
11 Subsection. The review shall include consultation with local, parish, regional, and
12 other state entities, authorities, or agencies as deemed necessary by the secretary of
13 the department. Each agency, authority, and other entity that the department engages
14 in accordance with this Paragraph shall cooperate with and contribute to the
15 department's review.

16 (8) Pursuant to each review of an emergency preparedness plan conducted
17 in accordance with Paragraph (7) of this Subsection, the department shall transmit
18 a written notification letter in electronic format to the nursing home that submitted
19 the emergency preparedness plan. The notification letter shall discuss all issues and
20 items in the emergency preparedness plan that the department requires the nursing
21 home to address, change, or update. If the department determines that no issues or
22 items within a nursing home's emergency preparedness plan need to be addressed,
23 changed, or updated, then the department shall state this determination to the nursing
24 home in the notification letter.

25 (9) Each nursing home that receives from the department a notification letter
26 transmitted in accordance with Paragraph (8) of this Subsection which indicates that
27 any aspect of its emergency preparedness plan must be addressed, changed, or
28 updated shall, within fifteen days of receipt of the letter, take all required actions
29 communicated by the letter. The nursing home shall submit a copy of the updated

1 and revised emergency preparedness plan produced as required by this Paragraph to
2 the department, the office of state fire marshal, and each local office of emergency
3 preparedness to which it previously submitted an emergency preparedness plan in
4 accordance with the requirements of Paragraph (3) of this Subsection. The nursing
5 home shall submit the updated and revised emergency preparedness plan in
6 electronic format, if available, to the recipients listed in this Paragraph.

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

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

18 (a) A primary evacuation site, verified by written agreements or contracts,
19 and any other alternative evacuation sites that the nursing home may have.

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

22 (c) Staffing patterns for evacuation, including contact information for such
23 staff.

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

26 (3) Each nursing home located in a parish listed in Paragraph (1) of this
27 Subsection shall submit a copy of its emergency preparedness plan, in electronic
28 format if available, to all of the following entities:

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

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

6 (4) Each local office of emergency preparedness that receives an emergency
7 preparedness plan from a nursing home shall review the plan and shall report any
8 significant concerns or recommendations regarding the plan in writing to the nursing
9 home. If the local office of emergency preparedness has no significant concerns or
10 recommendations regarding the plan, then it shall communicate that finding in
11 writing to the nursing home. All written communication required by this Paragraph
12 shall be in electronic format if available.

13 (5) Each nursing home located in a parish listed in Paragraph (1) of this
14 Subsection shall update and revise its emergency preparedness plan to address and
15 incorporate all recommendations that it receives from a local office of emergency
16 preparedness pursuant to the procedure provided in Paragraph (4) of this Subsection.
17 Each nursing home that updates and revises its emergency preparedness plan as
18 required by this Paragraph shall provide written notification of such revisions to the
19 local office of emergency preparedness that recommended the revisions.

20 (6) Each nursing home located in a parish listed in Paragraph (1) of this
21 Subsection shall submit a copy of the full, updated emergency preparedness plan to
22 the department in electronic format. In addition to the plan, the nursing home's
23 electronic submission to the department shall include all of the following:

24 (a) An executive summary document, signed by the nursing home's owner
25 or owners and its administrator, summarizing the ways in which the nursing home
26 addressed and incorporated within its emergency preparedness plan any
27 recommendations submitted by a local office of emergency preparedness.

1 (b) Each written notification furnished by a local office of emergency
2 preparedness to the nursing home in accordance with Paragraph (4) of this
3 Subsection.

4 (c) Each written notification transmitted by the nursing home to a local
5 office of emergency preparedness in accordance with Paragraph (5) of this
6 Subsection.

7 (7) The department shall conduct a review of each nursing home emergency
8 preparedness plan submitted to it in accordance with Paragraph (6) of this
9 Subsection. The review shall include consultation with local, parish, regional, and
10 other state entities, authorities, or agencies as deemed necessary by the secretary of
11 the department. Each agency, authority, and other entity that the department engages
12 in accordance with this Paragraph shall cooperate with and contribute to the
13 department's review.

14 (8) Pursuant to each review of an emergency preparedness plan conducted
15 in accordance with Paragraph (7) of this Subsection, the department shall transmit
16 a written notification letter in electronic format to the nursing home that submitted
17 the emergency preparedness plan. The notification letter shall discuss all issues and
18 items in the emergency preparedness plan that the department requires the nursing
19 home to address, change, or update. If the department determines that no issues or
20 items within a nursing home's emergency preparedness plan need to be addressed,
21 changed, or updated, then the department shall state this determination to the nursing
22 home in the notification letter.

23 (9) Each nursing home that receives from the department a notification letter
24 transmitted in accordance with Paragraph (8) of this Subsection which indicates that
25 any aspect of its emergency preparedness plan must be addressed, changed, or
26 updated shall, within fifteen days of receipt of the letter, take all required actions
27 communicated by the letter. The nursing home shall submit a copy of the updated
28 and revised emergency preparedness plan produced as required by this Paragraph to
29 the department, the office of state fire marshal, and each local office of emergency

1 preparedness to which it previously submitted an emergency preparedness plan in
2 accordance with the requirements of Paragraph (3) of this Subsection. The nursing
3 home shall submit the updated and revised emergency preparedness plan in
4 electronic format, if available, to the recipients listed in this Paragraph.

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

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

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

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

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

26 (c) The office of state fire marshal.

27 (d) The department.

28 (3)(a) Each notification required by Paragraph (2) of this Subsection shall
29 be in the form of a written attestation signed by the owner or owners and the

1 administrator of the nursing home submitting the notification. A nursing home may
2 submit an attestation provided for in this Paragraph for no more than four
3 consecutive years.

4 (b) If a nursing home has submitted an attestation provided for in
5 Subparagraph (a) of this Paragraph for four consecutive years, then, in the year
6 following its last submission, the nursing home shall furnish a full emergency
7 preparedness plan in accordance with the procedures provided in Paragraphs (4)
8 through (10) of this Subsection.

9 (4) If a nursing home conducts a review in accordance with Paragraph (1)
10 of this Subsection and determines that any changes, modifications, or amendments
11 to its emergency preparedness plan are necessary, or if a nursing home is required
12 by Subparagraph (3)(b) of this Subsection to furnish a full emergency preparedness
13 plan, then the nursing home shall submit its full emergency preparedness plan,
14 inclusive of any updates and revisions, to all of the following entities on or before
15 November first:

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

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

21 (5) Each local office of emergency preparedness that receives a nursing
22 home emergency preparedness plan pursuant to the requirements of Paragraph (4)
23 of this Subsection shall review the plan and report any significant concerns and
24 recommendations regarding the plan to the nursing home in writing prior to
25 December fifteenth. If the local office of emergency preparedness has no significant
26 concerns or recommendations with respect to the plan, then the office shall
27 communicate that finding to the nursing home in writing prior to December fifteenth.
28 All communication provided for in this Paragraph shall be in electronic format if
29 available.

1 (6) If a local office of emergency preparedness submits recommendations
2 to a nursing home regarding the nursing home's emergency preparedness plan in
3 accordance with Paragraph (5) of this Subsection, then the nursing home shall
4 complete all of the following tasks on or before January thirty-first:

5 (a) Update and revise its emergency preparedness plan to address and
6 incorporate the recommendations submitted by the local office of emergency
7 preparedness.

8 (b) Provide written notification of revisions to its emergency preparedness
9 plan and incorporation of recommendations regarding the plan to the local office of
10 emergency preparedness that submitted the respective recommendations.

11 (7) Each nursing home shall submit a copy of its full, updated emergency
12 preparedness plan to the department in electronic format on or before February first.
13 In addition to the plan, the nursing home's electronic submission to the department
14 shall include all of the following:

15 (a) An executive summary document, signed by the owner or owners and the
16 administrator of the nursing home, summarizing the ways in which the nursing home
17 addressed and incorporated within its emergency preparedness plan any
18 recommendations submitted by a local office of emergency preparedness.

19 (b) Each written notification sent to the nursing home by a local office of
20 emergency preparedness in accordance with Paragraph (5) of this Subsection.

21 (c) Each written notification sent to a local office of emergency preparedness
22 by the nursing home in accordance with Subparagraph (6)(b) of this Subsection.

23 (8) The department shall conduct a review of each nursing home emergency
24 plan submitted to it in accordance with Paragraph (7) of this Subsection. The review
25 shall include consultation with local, parish, regional, and other state entities,
26 authorities, or agencies as deemed necessary by the secretary of the department.
27 Each agency, authority, and other entity that the department engages in accordance
28 with this Paragraph shall cooperate with and contribute to the department's review.

1 (9) Pursuant to each review of an emergency preparedness plan conducted
2 in accordance with Paragraph (8) of this Subsection, the department shall transmit,
3 on or before May fifteenth, a written notification letter in electronic format to the
4 nursing home that submitted the emergency preparedness plan. The notification
5 letter shall discuss all issues and items in the emergency preparedness plan that the
6 department requires the nursing home to address, change, or update. If the
7 department determines that no issues or items within a nursing home's emergency
8 preparedness plan need to be addressed, changed, or updated, then the department
9 shall state this determination to the nursing home in the notification letter.

10 (10) Each nursing home that receives from the department a notification
11 letter transmitted in accordance with Paragraph (9) of this Subsection which
12 indicates that any aspect of its emergency preparedness plan must be addressed,
13 changed, or updated shall, within fifteen days of receipt of the letter, take all required
14 actions communicated by the letter. The nursing home shall submit a copy of the
15 updated and revised emergency preparedness plan produced as required by this
16 Paragraph to the department, the office of state fire marshal, and each local office of
17 emergency preparedness to which it previously submitted an emergency
18 preparedness plan in accordance with the requirements of Paragraph (3) of this
19 Subsection. The nursing home shall submit the updated and revised emergency
20 preparedness plan in electronic format, if available, to the recipients listed in this
21 Paragraph.

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

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

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

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

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

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

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

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

12 (g) Requirements, timelines, and procedures for after-action reports as
13 provided for more specifically in Subsection I of this Section.

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

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

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

22 G.(1) The legislature hereby creates within the department the Nursing
23 Home Emergency Preparedness Review Committee, referred to hereafter in this
24 Subsection as the "committee." The committee shall be composed as provided in
25 Paragraph (2) of this Subsection and shall convene at least annually. The purposes
26 and duties of the committee shall include reviewing the findings of the department
27 with respect to nursing home emergency preparedness plans submitted to the
28 department in accordance with the requirements of this Section. From its review of
29 such findings and summaries of after-action reports, the committee shall develop and

1 provide to the department recommendations for licensing regulations which address
2 risks and threats; manpower issues for loading, transporting, and unloading residents;
3 evacuation site locations; and evacuation site staffing in order to promote the health,
4 safety, and welfare of nursing home residents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (c) The department may inspect and survey nonlicensed sheltering sites
26 identified in nursing home emergency preparedness plans. The purpose of such
27 inspections and surveys shall be to determine the appropriateness and suitability of
28 the site and its capacity to comply with requirements for nursing home evacuations
29 before, during, and after an evacuation. Any refusal by a nonlicensed sheltering site

1 to allow an inspection or survey of the site by the department may result in
2 disqualification of the nonlicensed sheltering site. If such a refusal to allow an
3 inspection or survey occurs when nursing home residents are being sheltered at the
4 site, the department may revoke the license of the nursing home that evacuated
5 residents to the site.

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

15 I.(1)(a) Each nursing home that evacuates residents from its licensed
16 premises shall submit an after-action report to the department.

17 (b) Each nursing home that encounters any of the following situations at its
18 licensed premises or at an evacuation site shall submit an after-action report to the
19 department:

20 (i) The location experienced a power outage of longer than one hour.

21 (ii) The location experienced water intrusion into any building.

22 (iii) The location lost generator capability or power for more than one hour,
23 including loss of re-fueling ability.

24 (iv) The location sustained physical damage due to a hurricane, rain, wind,
25 other weather conditions, flooding, fire, or any other disaster or emergency.

26 (c) Each after-action report shall conform with the requirements and
27 specifications for such reports provided by the department in rule.

1 (2) The department shall promulgate rules in accordance with the
2 Administrative Procedure Act which establish requirements, timelines, and
3 procedures for after-action reports to be submitted by nursing homes.

4 (3) Each after-action report, and any attachments to such report, submitted
5 to the department as required by the provisions of this Subsection shall be
6 confidential and exempt from disclosure pursuant to the Public Records Law, R.S.
7 44:1 et seq.

8 J.(1) Neither the state nor the department, nor, except in the case of willful
9 misconduct, the employees or representatives of the state or the department, engaged
10 in the emergency preparedness activities and responsibilities as established in this
11 Section or in the rules and regulations promulgated pursuant to the provisions of this
12 Section, shall be liable for the death of or any injury to persons or damage to
13 property as a result of such activity. The state, the department, and employees and
14 representatives of the state and the department shall be immune from any claim
15 based upon the exercise or performance of, or the failure to exercise or perform, the
16 duties as established in this Section or in the rules and regulations promulgated
17 pursuant to the provisions of this Section.

18 (2) The members of the Nursing Home Emergency Preparedness Review
19 Committee engaged in the emergency preparedness activities and responsibilities as
20 established in this Section or in the rules and regulations promulgated pursuant to the
21 provisions of this Section shall not be liable for the death of or any injury to persons
22 or damage to property as a result of such activity. The members of the Nursing
23 Home Emergency Preparedness Review Committee shall be immune from any claim
24 based upon the exercise or performance of, or the failure to exercise or perform, the
25 duties as established in this Section or in the rules and regulations promulgated
26 pursuant to the provisions of this Section.

27 K. Nothing in this Section shall be construed to prohibit the department from
28 taking action against a nursing home for a deficiency cited during an emergency or
29 disaster.

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

3 Section 2. R.S. 44:4.1(B)(26) is hereby amended and reenacted to read as follows:

4 §4.1. Exceptions

5 * * *

6 B. The legislature further recognizes that there exist exceptions, exemptions,
7 and limitations to the laws pertaining to public records throughout the revised
8 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
9 limitations are hereby continued in effect by incorporation into this Chapter by
10 citation:

11 * * *

12 (26) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 95, 96, 526, 528, 973.1, 978.2.1,
13 1007, 1061.21, 1079.18, 1081.10, 1105.6, 1105.8, 1133.8, 1168.3, 1171.4, 1203.4,
14 1231.4, 1379.1.1(D), 1379.3, 2009.8, 2009.14, 2009.25, 2010.5, 2017.9, 2018,
15 2018.5, 2019, 2020, 2106, 2109.1, 2138, 2175.7(B)(1), 2532, 2845.1

16 * * *

17 Section 3. R.S. 36:259(B)(28) and R.S. 40:2009.1 are hereby repealed in their
18 entirety.

19 Section 4.(A) Each licensed nursing home located in the parishes of Acadia,
20 Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette,
21 Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the
22 Baptist, Saint Mary, Saint Martin, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion
23 shall develop the emergency preparedness plan required by the provisions of R.S.
24 40:2009.25(C)(2), as enacted by Section 1 of this Act, prior to August 1, 2022.

25 (B) Each licensed nursing home located in a parish listed in Subsection (A) of this
26 Section shall submit copies of its emergency preparedness plan in accordance with the
27 requirements of R.S. 40:2009.25(C)(3), as enacted by Section 1 of this Act, prior to August
28 2, 2022.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (C) Each local office of emergency preparedness that, prior to August 2, 2022,
2 receives an emergency preparedness plan from a nursing home in accordance with R.S.
3 40:2009.25(C)(3), as enacted by Section 1 of this Act, shall review the plan and shall submit
4 to the nursing home the written report required by the provisions of R.S. 40:2009.25(C)(4),
5 as enacted by Section 1 of this Act, prior to October 15, 2022.

6 (D) Each licensed nursing home located in a parish listed in Subsection (A) of this
7 Section shall perform the duties relative to revising its emergency preparedness plan
8 prescribed by R.S. 40:2009.25(C)(5), as enacted by Section 1 of this Act, prior to November
9 15, 2022.

10 (E) Each licensed nursing home located in a parish listed in Subsection (A) of this
11 Section shall submit a copy of its full, updated emergency preparedness plan to the
12 Louisiana Department of Health in accordance with the requirements of R.S.
13 40:2009.25(C)(6), as enacted by Section 1 of this Act, prior to November 16, 2022.

14 (F) The Louisiana Department of Health shall transmit to licensed nursing homes
15 all notification letters required by the provisions of R.S. 40:2009.25(C)(8), as enacted by
16 Section 1 of this Act, prior to May 15, 2023.

17 Section 5.(A) Each licensed nursing home located in the parishes of Allen,
18 Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne,
19 Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin,
20 Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches,
21 Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Helena, Saint Landry,
22 Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West
23 Feliciana, and Winn shall develop the emergency preparedness plan required by the
24 provisions of R.S. 40:2009.25(D)(2), as enacted by Section 1 of this Act, prior to August 1,
25 2023.

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(D)(3), as enacted by Section 1 of this Act, prior to August
29 2, 2023.

1 (C) Each local office of emergency preparedness that, prior to August 2, 2023,
2 receives an emergency preparedness plan from a nursing home in accordance with R.S.
3 40:2009.25(D)(3), as enacted by Section 1 of this Act, shall review the plan and shall submit
4 to the nursing home the written report required by the provisions of R.S. 40:2009.25(D)(4),
5 as enacted by Section 1 of this Act, prior to October 15, 2023.

6 (D) Each licensed nursing home located in a parish listed in Subsection (A) of this
7 Section shall perform the duties relative to revising its emergency preparedness plan
8 prescribed by R.S. 40:2009.25(D)(5), as enacted by Section 1 of this Act, prior to November
9 15, 2023.

10 (E) Each licensed nursing home located in a parish listed in Subsection (A) of this
11 Section shall submit a copy of its full, updated emergency preparedness plan to the
12 Louisiana Department of Health in accordance with the requirements of R.S.
13 40:2009.25(D)(6), as enacted by Section 1 of this Act, prior to November 16, 2023.

14 (F) The Louisiana Department of Health shall transmit to licensed nursing homes
15 all notification letters required by the provisions of R.S. 40:2009.25(D)(8), as enacted by
16 Section 1 of this Act, prior to May 15, 2024.

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

20 Section 7. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 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 Original

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) Prior to August 1, 2022: Each nursing home located in one of the 22 parishes listed above shall develop a new emergency preparedness plan.
- (2) Prior to August 2, 2022: Each nursing home located in a listed parish shall submit its new emergency preparedness plan to all of the following entities:
 - (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 an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan, is located.
- (3) Prior to October 15, 2022: Each local office of emergency preparedness that received an emergency preparedness plan from a nursing home shall send the nursing home a report of any significant concerns or recommendations regarding the plan.
- (4) Prior to November 15, 2022: Each nursing home located in a listed parish shall update and revise its emergency preparedness plan to address and incorporate all recommendations that it receives from a local office of emergency preparedness.
- (5) Prior to November 16, 2022: Each nursing home located in a listed parish shall submit its full, updated emergency preparedness plan to LDH.
- (6) Prior to May 15, 2023: LDH shall transmit to each nursing home from which it received an emergency preparedness plan a notification letter discussing all issues and items in the plan that it requires the nursing home to address, change, or update; or indicating that no issues or items in the plan need to be addressed, changed, or updated.

- (7) Within 15 days of receipt of LDH notification letter: Each nursing home that received a notification letter from LDH indicating that any issues or items in its emergency preparedness plan need to be addressed, changed, or updated shall take the required actions indicated in the letter.

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) Prior to August 1, 2023: Each nursing home located in one of the 42 parishes listed above shall develop a new emergency preparedness plan.
- (2) Prior to August 2, 2023: Each nursing home located in a listed parish shall submit its new emergency preparedness plan to all of the following entities:
- (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 an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan, is located.
- (3) Prior to October 15, 2023: Each local office of emergency preparedness that received an emergency preparedness plan from a nursing home shall send the nursing home a report of any significant concerns or recommendations regarding the plan.
- (4) Prior to November 15, 2023: Each nursing home located in a listed parish shall update and revise its emergency preparedness plan to address and incorporate all recommendations that it receives from a local office of emergency preparedness.
- (5) Prior to November 16, 2023: Each nursing home located in a listed parish shall submit its full, updated emergency preparedness plan to LDH.
- (6) Prior to May 15, 2024: LDH shall transmit to each nursing home from which it received an emergency preparedness plan a notification letter discussing all issues and items in the plan that it requires the nursing home to address, change, or update; or indicating that no issues or items in the plan need to be addressed, changed, or updated.
- (7) Within 15 days of receipt of LDH notification letter: Each nursing home that received a notification letter from LDH indicating that any issues or items in its emergency preparedness plan need to be addressed, changed, or updated shall take the required actions indicated in the letter.

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 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) Requirements, timelines, and procedures for after-action reports as defined in and provided for more specifically in proposed law.
- (8) 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 defines "after-action report", for purposes of proposed law, as a written report by a nursing home attesting to its degree of adherence to its emergency preparedness plan and discussing the execution and implementation of that plan during a disaster event or other emergency.

Proposed law requires each nursing home that evacuates residents from its licensed premises to submit an after-action report to LDH. Also requires each nursing home that encounters any of the following situations at its licensed premises or at an evacuation site to submit an after-action report to LDH:

- (1) The location experienced a power outage of longer than one hour.
- (2) The location experienced water intrusion into any building.
- (3) The location lost generator capability or power for more than one hour, including loss of re-fueling ability.
- (4) The location sustained physical damage due to a hurricane, rain, wind, other weather conditions, flooding, fire, or any other disaster or emergency.

Proposed law stipulates that after-action reports shall be confidential and exempt from disclosure pursuant to present law relative to public records (R.S. 44:1 et seq.).

Proposed law provides a limitation of liability for the state, LDH, employees of the state and LDH, 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 repeals present law creating and providing for an 11-member nursing home advisory committee within LDH.

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

(Amends R.S. 40:2009.25 and R.S. 44:4.1(B)(26); Repeals R.S. 36:259(B)(28) and R.S. 40:2009.1)