

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Nursing Facility Minimum Licensing Standards
Emergency Preparedness
(LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the current Louisiana Model Nursing Home Emergency Plan and these regulations. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. All nursing facilities located in the parishes named in Louisiana R.S. 40:2009.25(A) shall submit their emergency preparedness information and documentation to the department for review. Upon request, all other nursing facilities shall forward their emergency preparedness information and documentation to the Department of Health and Hospitals (DHH) for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

- i. a copy of the nursing facility's emergency preparedness plan;
- ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;
- iii. the current census and number of licensed beds; and
- iv. the facility location and current contact information.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. A nursing facility shall enter current facility information into the Health Standards Section's (HSS) emergency preparedness webpage.

1. The following information shall be entered into the HSS Emergency Preparedness webpage before the fifteenth of each month:

- a. operational status;
- b. census;
- c. emergency contact and destination location information;
- d. emergency evacuation transportation needs categorized by the following types:

- i. total number needing a coach or bus;
- ii. total number needing a para-transit or wheelchair accessible vehicle;
- iii. total number needing transportation other than car, coach, bus or wheelchair accessible vehicle, but do not need advanced life support; or
- iv. total number needing an advance life support ambulance.

2. A facility shall also enter information within 24 hours of an emergency event. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

3. In addition, a facility shall enter updated information requested by the department within 48 hours.

4. Effective immediately, upon declaration by the secretary and notification to the Louisiana Nursing Home Association and Gulf States Association of Homes and Services for the Aging, all nursing facilities licensed in Louisiana shall file an electronic report with the HSS emergency preparedness webpage/operating system, or a successor operation system, during a declared disaster or other public health emergency.

a. The electronic report will enable the department to monitor the status of nursing facilities during and immediately following an emergency event.

b. The electronic report shall be filed twice daily at 7:30 a.m. and 2:30 p.m. throughout the duration of the disaster or emergency event.

c. The electronic report shall include, but is not limited to the following:

i. status of operation (open, limited or closed);

ii. availability of beds;

iii. resources that have been requested by the nursing facility from the local or state Office of Emergency Preparedness;

iv. generator status;

v. evacuation status;

vi. shelter in place status; and

vii. other information requested by the department.

NOTE: The electronic report is not to be used to request resources or to report emergency events.

C. The emergency preparedness plan shall be individualized and site specific. All information submitted shall be current and correct. At a minimum, the nursing facility shall have a written emergency plan that addresses:

1. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of evacuation determinations;

2. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of sheltering in place determinations;

3. a primary sheltering host site(s) and alternative sheltering host site(s) outside the area of risk. These host sites must be verified by written agreements or contracts that have been signed and dated by all parties. These agreements or contracts shall be verified annually;

4. the policies and procedures for mandatory evacuations:

a. if the state, parish, or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority prior to the mandated evacuation;

5. the monitoring of weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials:

a. this monitoring plan shall identify who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed;

6. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

7. the provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

8. an executable plan for coordinating transportation services that are adequate for the resident census and staff. The vehicles required for evacuating residents to another location shall be air-conditioned when available. The plan shall include the following information:

a. a triage system to identify residents who require specialized transportation and medical needs including the number of residents who need:

i. an ambulance for advanced life support;

ii. an ambulance for basic life support;

iii. a wheelchair accessible or para-transit vehicle; and/or

iv. a van, coach or bus;

b. a written transportation contract(s) for the evacuation of residents and staff to a safe location outside the area of risk that is signed and dated by all parties. Vehicles that are owned by or at the disposal of the facility must have written usage agreements that are signed, dated and include verification of ownership;

NOTE: A copy of a vehicle's title or registration will be sufficient for verification of ownership.

c. The transportation contract and the written usage plans shall include:

i. the number and type of vehicles included in the contract;

ii. the capacity of each vehicle included in the contract; and

- iii. a statement of whether each vehicle is air conditioned; and
- d. plans to prevent and treat heat related medical illnesses due to the failure of or the lack of air conditioning during transport;

9. the procedures to notify the resident's family or responsible representative of the facility's intent to either shelter in place or evacuate. The facility shall have a designee(s) who will be responsible for this notification. If the facility evacuates, notification shall include:

- a. the date and approximate time that the facility is evacuating;
- b. the place or location to which the nursing facility is evacuating, including the:
 - i. name;
 - ii. address; and
 - iii. telephone number;
- c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

NOTE: Notification to the resident's family or responsible party shall be made as far in advance as possible, but at least within 24 hours of the determination to shelter in place or after evacuation.

10. the procedures or methods that will be used to attach identification to the nursing facility resident. The facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain attached to the resident during all phases of an evacuation and shall include the following minimum information:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

11. the procedures for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:

- a. water;
- b. food;
- c. nutritional supplies and supplements;
- d. medication; and
- e. other necessary supplies;

NOTE: The facility shall designate a staff person to be responsible for ensuring that essential supplies are available during all phases of the evacuation.

12. the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are provided during all phases of the evacuation:

- a. for buses transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus:

- i. a licensed therapist(s) may substitute for licensed nursing staff;

13. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

14. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate:

NOTE: A nursing facility shall be considered sheltering in place if the facility elects to stay in place rather than evacuate when an executive order or proclamation of emergency or disaster is issued for the parish in which the facility is located pursuant to R.S. 29:724.

a. if the nursing facility shelters in place, the facility's plan shall ensure that seven days of necessary supplies are on hand or have written agreements, including timelines, to have supplies delivered prior to the emergency event. Supplies should include, but are not limited to:

- i. drinking water or fluids, a minimum of 1 gallon per day per person sheltering at the facility;
- ii. water for sanitation;
- iii. non-perishable food, including special diets;
- iv. medications;
- v. medical supplies;
- vi. personal hygiene supplies; and
- vii. sanitary supplies;

b. if the nursing facility shelters in place, the facility's plan shall provide for a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The facility shall designate a staff person to be responsible for this function. The communication plan shall include:

- i. the type of equipment to be used;
- ii. back-up equipment to be used if available;
- iii. the equipment's testing schedule; and
- iv. the power supply for the equipment being used;
- c. the facility's plan must include a statement indicating whether the facility has a generator for sheltering in place. If the facility has such a generator, the plan shall provide for a seven day supply of fuel, either on hand or delivered prior to the emergency event. If the facility has such a generator, the plan shall provide a list of the generator's capabilities including:
 - i. its ability to provide cooling or heating for all or designated areas in the facility;
 - ii. the ability to power an OPH approved sewerage system;
 - iii. the ability to power an OPH approved water system;
 - iv. the ability to power medical equipment;
 - v. the ability to power refrigeration;
 - vi. the ability to power lights; and
 - vii. the ability to power communications;
- d. an assessment of the integrity of the facility's building to include, but not be limited to:
 - i. wind load or ability to withstand wind;
 - ii. flood zone and flood plain information;
 - iii. power failure;
 - iv. age of building and type of construction; and
 - v. determinations of, and locations of interior safe zones;
- e. plans for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning while sheltering in place; and
- f. the facility's plan must include instructions to notify OHSEP and DHH of the facility's plan to shelter in place;

15. those nursing facilities that are subject to the provisions of R.S. 40:2009.25(A) shall perform a risk assessment to determine the facility's integrity. The integrity of the facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade as appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the facility's determinations and the following documentation:

- a. the facility's latitude and longitude;
- b. flood zone determination for the facility and base flood elevation, if available:
 - i. the facility shall evaluate how these factors will affect the building;
- c. elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor, if applicable:
 - i. the facility shall evaluate how these factors will affect the facility considering projected flood and surge water depths;
- d. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:
 - i. the construction type and age;
 - ii. roof type and wind load;
 - iii. windows, shutters and wind load;
 - iv. wind load of shelter building;
 - v. location of interior safe zones;

NOTE: If wind load determinations are not available, the facility shall give the reason.

- e. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;
- f. the determinations of an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:
 - i. trees;
 - ii. towers;
 - iii. storage tanks;
 - iv. other buildings;
 - v. pipe lines;
 - vi. chemical and biological hazards; and
 - vii. fuels;

g. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM) for the facility's specific location and the findings for all categories of hurricanes. The model will be done using both mean and high tides. The facility's plan must include an evaluation of how this will or will not affect the facility;

16. the facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

17. the facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The facility's plan shall include the following:

- a. the areas being used as shelter or safe zones;
- b. the supply and emergency supply storage areas;
- c. the emergency power outlets;
- d. the communications center;
- e. the location of the posted emergency plan:
 - i. the posted location must be easily accessible to staff; and
- f. a pre-designated command post.

D. Emergency Plan Activation, Review and Summary

1. The nursing facility's shelter in place and evacuation plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if a need is indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification. All agreements and contracts must be verified by all parties annually and submitted.

E. The nursing facility's plan shall be submitted to the parish or local OHSEP annually. Any recommendations by the parish or local OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

1. For nursing facilities listed in the R.S. 40:2009.25(A), the following requirements must be met.

- a. The nursing facility's plan shall include verification of its submission to the parish or local OHSEP.
- b. A copy of any and all response(s) by the nursing facility to the local or parish OHSEP recommendations shall be forwarded to DHH nursing home preparedness manager.

F. The plan shall be available to representatives of the Office of the State Fire Marshal and the Office of Public Health.

1. - 2. Repealed.

G. The facility's plan shall follow all applicable laws, standards, rules or regulations.

1. - 2.c. Repealed.

H. Evacuation, Temporary Relocation or Temporary Cessation

1. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location an emergency event.

a. The nursing facility must immediately give written notice to the Health Standards Section by hand delivery, facsimile or email of the following information:

- i. the date and approximate time of the evacuation;
- ii. the sheltering host site(s) to which the nursing facility is evacuating; and
- iii. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

b. Within 48 hours, the nursing facility must notify the Health Standards Section of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section with a list of all residents and their locations.

c. If there was no damage to the licensed location due to the emergency event and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the nursing facility may reopen at its licensed location and shall notify DHH Health Standards within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, a nursing facility must submit to Health Standards a written request to reopen, prior to reopening at the licensed location. That request shall include:

- i. damage report;
- ii. extent and duration of any power outages;
- iii. re-entry census;
- iv. staffing availability;

- v. access to emergency or hospital services; and
 - vi. availability and/or access to food, water, medications and supplies.
2. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.
 3. After review of all documentation, the department shall issue a notice of one of the following determinations:
 - a. approval of reopening without survey;
 - b. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or
 - c. denial of reopening.
 4. The purpose of the surveys referenced above is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.
 - a. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.
 - b. The Health Standards Section will give priority to reopening surveys.
 5. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:
 - a. pertinent plan provisions and how the plan was followed and executed;
 - b. plan provisions that were not followed;
 - c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
 - d. contingency arrangements made for those plan provisions not followed; and
 - e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.
 - I. Sheltering in Place. If a nursing facility shelters in place at its licensed location during an emergency event, the following will apply.
 1. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:
 - a. pertinent plan provisions and how the plan was followed and executed;
 - b. plan provisions that were not followed;
 - c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
 - d. contingency arrangements made for those plan provisions not followed; and
 - e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.
 - J. Unlicensed Sheltering Sites
 1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed 15 days, to remain at the unlicensed sheltering site.
 - a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.
 - b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility.
 - c. This extension shall be granted only if essential care and services to residents are ensured at the current sheltering facility.
 2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).
 - K. Inactivation of License due to Declared Disaster or Emergency

1. A licensed nursing facility in an area or areas which have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. the licensed nursing facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the nursing facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

ii. the licensed nursing facility intends to resume operation as a nursing facility in the same service area; and

iii. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

NOTE: Pursuant to these provisions, an extension of the 60 day deadline may be granted at the discretion of the department.

b. the licensed nursing facility resumes operating as a nursing facility in the same service area within two years of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

c. the licensed nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

d. the licensed nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a nursing facility license, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to the licensing agency of the department within two years of the executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

4. Upon receiving a completed written request to reinstate a nursing facility license, the department shall conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements under this Subsection, the department shall issue a notice of reinstatement of the nursing facility license. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to inactivate the license.

5. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a nursing facility.

6. The provisions of this Subsection shall not apply to a nursing facility which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 34:1917 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing LR 35:248 (February 2009).

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Secretary

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