

2022 Regular Session

SENATE BILL NO. 166

BY SENATOR TALBOT

NURSING HOMES. Requires nursing facilities to have generators. (8/1/22)

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AN ACT

To enact R.S. 40:2009.24, relative to nursing facilities; to require an emergency alternative electrical power source; to provide for minimum requirements; to provide for fuel; to provide for a compliance deadline; to provide for written notification to residents; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2009.24 is hereby enacted to read as follows:

§2009.24. Alternative electrical power source required

A. Each nursing facility shall prepare and implement a detailed plan to address emergency power in the event of the loss of primary electrical power in that nursing facility. A plan shall be specific to an individual facility identified by the facility's physical address and license number. The plan shall include specific details regarding all of the following:

(1)(a) The acquisition of a sufficient alternate power source such as one or more generators maintained at the nursing facility to ensure the protection of resident health, safety, welfare, and comfort for a minimum of ninety-six hours in the event of the loss of primary electrical power. Safe indoor air

1 temperatures in resident-occupied areas shall be determined by the nursing
2 facility to meet the clinical needs of residents, but shall not exceed eighty-one
3 degrees Fahrenheit.

4 (b) The required temperature shall be maintained in an area determined
5 by the nursing facility to be of sufficient size to maintain all residents safely at
6 all times, appropriate to meet critical care needs, and in compliance with life
7 safety requirements.

8 (c) A multistory facility whose plan is to move residents to a higher floor
9 during a flood or surge event shall place its alternative power source and all
10 necessary additional equipment in a location protected from flooding or storm
11 surge damage.

12 (2)(a) The acquisition of sufficient fuel and safe maintenance of that fuel
13 onsite at the facility to ensure that in the event of the loss of primary electrical
14 power there is sufficient fuel available for the alternate power source to power
15 life safety systems, critical systems, and equipment necessary to maintain safe
16 indoor air temperatures for ninety-six hours after the loss of electrical power
17 during a declared state of emergency.

18 (b) A nursing facility shall store a minimum of seventy-two hours of fuel
19 onsite.

20 (c) Piped natural gas is an allowable fuel source and meets the onsite
21 fuel required by this Paragraph.

22 (d) If a local ordinance or other government regulation limits the
23 amount of onsite fuel storage for the nursing facility's location and the nursing
24 facility does not have access to piped natural gas, then the nursing facility shall
25 develop a plan that includes the maximum onsite fuel storage allowed by the
26 ordinance or regulation and a reliable method to obtain additional fuel at least
27 twenty-four hours prior to depletion of onsite fuel.

28 (3) The acquisition of services necessary to install, maintain, and test the
29 equipment and its functions to ensure the safe and sufficient operation of the

1 alternate power source installed in the nursing facility.

2 B.(1) No later than October 1, 2022, each nursing facility built or whose
3 construction plans have been approved by the department prior to August 1,
4 2022, shall submit its plan for review and approval in accordance with the
5 procedures established by the department. A nursing facility approved for
6 construction and built on or after August 1, 2022, shall submit the plan required
7 by this Section prior to obtaining a license.

8 (2) A nursing facility that undergoes additions, modifications,
9 alterations, refurbishment, reconstruction, or renovations that require
10 modification of the system or equipment affecting the nursing facility's
11 compliance with this Section shall amend its plan and submit it for review and
12 approval in accordance with the procedures established by the department.

13 C. Once review of the plan is complete, the department shall do one of
14 the following:

15 (1)(a) Report deficiencies in the plan to the nursing facility for resolution.

16 (b) The nursing facility shall resubmit the plan within ten business days.

17 (2) Report approval or denial of the plan to the nursing facility.

18 D.(1) A nursing facility built or whose construction plans have been
19 approved by the department prior to August 1, 2022, shall prepare and
20 implement the plan required pursuant to this Section no later than
21 December 31, 2022.

22 (a) The department may grant a single extension up to June 1, 2023, to
23 nursing facilities in compliance with Subparagraph (b) of this Paragraph and
24 who can show delays are caused by necessary construction, delivery of ordered
25 equipment, zoning, or other regulatory approval processes. Nursing facilities
26 granted an extension shall keep the department apprised of progress on a
27 monthly basis to ensure there are no unnecessary delays.

28 (b) If granted an extension pursuant to Subparagraph (a) of this
29 Paragraph, a nursing facility shall make arrangements pending full

1 implementation of its plan that the residents are to be housed in a manner that
2 meets the safe indoor air temperature requirements of Subsection A of this
3 Section for a minimum of ninety-six hours in the event of the loss of primary
4 electrical power.

5 E.(1) Each nursing facility shall develop written policies and procedures
6 to implement the plan prepared pursuant to Subsection A of this Section. The
7 policies and procedures shall ensure that the nursing facility can effectively and
8 immediately activate, operate, and maintain the alternate power source and any
9 fuel required for the operation of the alternate power source. The procedures
10 shall be resident-focused to ensure that residents do not experience
11 complications from heat exposure, and shall include a contingency plan to
12 transport residents to a safe facility if the current nursing facility's plan to keep
13 the residents in a safe and comfortable location within the nursing facility at or
14 below the indoor air temperature required by this Section becomes
15 compromised.

16 (2) Each nursing facility shall maintain the plan prepared pursuant to
17 Subsection A of this Section and its written policies and procedures in a manner
18 that makes them readily available at the facility's physical address for review
19 upon request of any interested person.

20 F.(1) A nursing facility shall notify in writing each resident and the
21 resident's legal representative of the submission of the plan required by this
22 Section to the department for review and approval no later than three business
23 days after submittal. The nursing facility shall also notify in writing each
24 resident and the resident's legal representative of the implementation of the
25 plan by the nursing facility no later than three days following receipt of
26 approval of the plan from the department.

27 (2) The nursing facility shall keep a copy of each notification sent by the
28 nursing facility to the resident and resident's representative on file.

29 G. For a violation of any provision of this Section, the department may

1 **suspend or revoke a nursing facility's license and impose administrative fines.**

2 **H. For the purposes of this Section, the following definitions apply:**

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

4 **(2) "Readily available" means the ability to immediately produce a plan,**
5 **either in electronic or paper format, upon request.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Brandi Cannon.

DIGEST

SB 166 Original

2022 Regular Session

Talbot

Present law provides for nursing facilities in certain parishes to develop an emergency preparedness plan and submit it to the Louisiana Department of Health (LDH).

Proposed law retains present law and further requires all nursing facilities in the state to prepare and implement a detailed plan to address emergency power in the event of the loss of primary electrical power in that nursing facility.

Proposed law provides that the plan shall be specific to an individual facility identified by the facility's physical address and license number. Further provides that the plan shall include specific details regarding all of the following:

- (1) The acquisition of a sufficient alternate power source to ensure the protection of resident health, safety, welfare, and comfort for a minimum of 96 hours in the event of the loss of primary electrical power.
- (2) The acquisition of sufficient fuel and safe maintenance of that fuel onsite.
- (3) The acquisition of services necessary to install, maintain, and test the equipment.

Proposed law provides that each existing nursing facility shall submit its plan for review and approval in accordance with the procedure established by LDH no later than October 1, 2022. New nursing facilities shall submit the plan prior to obtaining a license.

Proposed law provides that existing nursing facilities shall prepare and implement the plan no later than December 31, 2022, but allows LDH to grant a single extension up to June 1, 2023, to nursing facilities who can show delays are caused by necessary construction, delivery of ordered equipment, zoning, or other regulatory approval processes.

Proposed law provides that nursing facilities shall notify in writing each resident and the resident's legal representative of the submission and implementation of the plan.

Proposed law provides that LDH may suspend or revoke a nursing facility's license and impose administrative fines for a violation of any provision of proposed law.

Effective August 1, 2022.

(Adds R.S. 40:2009.24)