

By the Committee on Health Policy; and Senators Passidomo and Stargel

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1 A bill to be entitled
2 An act relating to emergency power for nursing home
3 and assisted living facilities; amending s. 400.23,
4 F.S.; requiring the Agency for Health Care
5 Administration, in consultation with the Department of
6 Health and the Department of Elderly Affairs, to adopt
7 and enforce rules requiring each facility to have an
8 emergency power source and a supply of fuel which meet
9 certain criteria by a specified date; requiring the
10 agency to adopt rules establishing minimum criteria
11 for a comprehensive emergency management plan that
12 includes a plan to monitor residents and a plan to
13 transport them in certain situations to avoid
14 complications from heat exposure; amending s. 429.41,
15 F.S.; requiring the Department of Elderly Affairs, in
16 consultation with the agency, the Department of
17 Children and Families, and the Department of Health,
18 to adopt and enforce rules requiring each facility to
19 maintain an emergency power source and a supply of
20 fuel which meet certain criteria by a specified date
21 and requiring facilities to have a certain carbon
22 monoxide alarm installed which meets certain
23 requirements; requiring the Department of Elderly
24 Affairs to establish minimum criteria for a
25 comprehensive emergency management plan that includes
26 a plan to monitor residents and transport them in
27 certain situations to avoid complications from heat
28 exposure; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraphs (d) and (g) of subsection (2) of
33 section 400.23, Florida Statutes, are amended to read:

34 400.23 Rules; evaluation and deficiencies; licensure
35 status.—

36 (2) Pursuant to the intention of the Legislature, the
37 agency, in consultation with the Department of Health and the
38 Department of Elderly Affairs, shall adopt and enforce rules to
39 implement this part and part II of chapter 408, which shall
40 include reasonable and fair criteria in relation to:

41 (d) The equipment essential to the health and welfare of
42 ~~the residents,~~ including an operational emergency power source
43 and a supply of fuel sufficient to sustain the emergency power
44 source for at least 96 hours during a power outage. The
45 emergency power source must provide enough electricity to
46 consistently maintain an air temperature described in rule. Each
47 facility must be in compliance with this paragraph by no later
48 than June 1, 2018.

49 (g) The preparation and annual update of a comprehensive
50 emergency management plan, which must include provisions for
51 emergency power equipment. The agency shall adopt rules
52 establishing minimum criteria for the plan after consultation
53 with the Division of Emergency Management. At a minimum, the
54 rules must provide for plan components that address emergency
55 evacuation transportation; adequate sheltering arrangements;
56 postdisaster activities, including emergency power, food, and
57 water; postdisaster transportation; supplies; staffing;
58 emergency equipment; individual identification of residents and

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59 transfer of records; a plan to monitor residents to ensure they
60 do not experience complications from heat exposure during a
61 power outage; a plan to safely transport residents to an
62 appropriate facility if a facility's management knows it will be
63 unable to maintain the residents in a safe temperature range;
64 and responding to family inquiries. The comprehensive emergency
65 management plan is subject to review and approval by the local
66 emergency management agency. During its review, the local
67 emergency management agency shall ensure that the following
68 agencies, at a minimum, are given the opportunity to review the
69 plan: the Department of Elderly Affairs, the Department of
70 Health, the Agency for Health Care Administration, and the
71 Division of Emergency Management. Also, appropriate volunteer
72 organizations must be given the opportunity to review the plan.
73 The local emergency management agency shall complete its review
74 within 60 days and either approve the plan or advise the
75 facility of necessary revisions.

76 Section 2. Paragraphs (a) and (b) of subsection (1) of
77 section 429.41, Florida Statutes, are amended to read:

78 429.41 Rules establishing standards.—

79 (1) It is the intent of the Legislature that rules
80 published and enforced pursuant to this section shall include
81 criteria by which a reasonable and consistent quality of
82 resident care and quality of life may be ensured and the results
83 of such resident care may be demonstrated. Such rules shall also
84 ensure a safe and sanitary environment that is residential and
85 noninstitutional in design or nature. It is further intended
86 that reasonable efforts be made to accommodate the needs and
87 preferences of residents to enhance the quality of life in a

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88 facility. Uniform firesafety standards for assisted living
89 facilities shall be established by the State Fire Marshal
90 pursuant to s. 633.206. The agency, in consultation with the
91 department, may adopt rules to administer the requirements of
92 part II of chapter 408. In order to provide safe and sanitary
93 facilities and the highest quality of resident care
94 accommodating the needs and preferences of residents, the
95 department, in consultation with the agency, the Department of
96 Children and Families, and the Department of Health, shall adopt
97 rules, policies, and procedures to administer this part, which
98 must include reasonable and fair minimum standards in relation
99 to:

100 (a) The requirements for and maintenance of facilities, not
101 in conflict with chapter 553, relating to plumbing, heating,
102 cooling, lighting, ventilation, living space, and other housing
103 conditions, which will ensure the health, safety, and comfort of
104 residents suitable to the size of the structure.

105 1. Firesafety evacuation capability determination.—An
106 evacuation capability evaluation for initial licensure shall be
107 conducted within 6 months after the date of licensure.

108 2. Firesafety requirements.—

109 a. The National Fire Protection Association, Life Safety
110 Code, NFPA 101 and 101A, current editions, shall be used in
111 determining the uniform firesafety code adopted by the State
112 Fire Marshal for assisted living facilities, pursuant to s.
113 633.206.

114 b. A local government or a utility may charge fees only in
115 an amount not to exceed the actual expenses incurred by the
116 local government or the utility relating to the installation and

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117 maintenance of an automatic fire sprinkler system in a licensed
118 assisted living facility structure.

119 c. All licensed facilities must have an annual fire
120 inspection conducted by the local fire marshal or authority
121 having jurisdiction.

122 d. An assisted living facility that is issued a building
123 permit or certificate of occupancy before July 1, 2016, may at
124 its option and after notifying the authority having
125 jurisdiction, remain under the provisions of the 1994 and 1995
126 editions of the National Fire Protection Association, Life
127 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
128 remain under such provisions may make repairs, modernizations,
129 renovations, or additions to, or rehabilitate, the facility in
130 compliance with NFPA 101, 1994 edition, and may use ~~utilize~~ the
131 alternative approaches to life safety in compliance with NFPA
132 101A, 1995 edition. However, a facility for which a building
133 permit or certificate of occupancy is issued before July 1,
134 2016, that undergoes Level III building alteration or
135 rehabilitation, as defined in the Florida Building Code, or
136 seeks to use ~~utilize~~ features not authorized under the 1994 or
137 1995 editions of the Life Safety Code must thereafter comply
138 with all aspects of the uniform firesafety standards established
139 under s. 633.206, and the Florida Fire Prevention Code, in
140 effect for assisted living facilities as adopted by the State
141 Fire Marshal.

142 3. Resident elopement requirements.—Facilities are required
143 to conduct a minimum of two resident elopement prevention and
144 response drills per year. All administrators and direct care
145 staff must participate in the drills which shall include a

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146 review of procedures to address resident elopement. Facilities
147 must document the implementation of the drills and ensure that
148 the drills are conducted in a manner consistent with the
149 facility's resident elopement policies and procedures.

150 4. Emergency power sources for use during power outages.-
151 Facilities are required to maintain an operational emergency
152 power source and a supply of fuel sufficient to sustain the
153 emergency power source for at least 96 hours during a power
154 outage. The emergency power source must provide enough
155 electricity to consistently maintain an air temperature
156 described in rule. Each facility must be in compliance with this
157 subparagraph by no later than June 1, 2018.

158 5. Carbon monoxide alarm required.-All facilities,
159 regardless of date of construction, must have an operational
160 carbon monoxide alarm installed which is approved by the Florida
161 Building Commission and which meets the requirements of s.
162 553.885.

163 (b) The preparation and annual update of a comprehensive
164 emergency management plan. Such standards must be included in
165 the rules adopted by the department after consultation with the
166 Division of Emergency Management. At a minimum, the rules must
167 provide for plan components that address emergency evacuation
168 transportation; adequate sheltering arrangements; postdisaster
169 activities, including provision of emergency power, food, and
170 water; postdisaster transportation; supplies; staffing;
171 emergency equipment; individual identification of residents and
172 transfer of records; a plan to monitor residents to ensure they
173 do not experience complications from heat exposure during a
174 power outage; a plan to safely transport residents to an

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175 appropriate facility if a facility's management knows it will be
176 unable to maintain the residents in a safe temperature range;
177 communication with families; and responses to family inquiries.
178 The comprehensive emergency management plan is subject to review
179 and approval by the local emergency management agency. During
180 its review, the local emergency management agency shall ensure
181 that the following agencies, at a minimum, are given the
182 opportunity to review the plan: the Department of Elderly
183 Affairs, the Department of Health, the Agency for Health Care
184 Administration, and the Division of Emergency Management. Also,
185 appropriate volunteer organizations must be given the
186 opportunity to review the plan. The local emergency management
187 agency shall complete its review within 60 days and either
188 approve the plan or advise the facility of necessary revisions.

189 Section 3. This act shall take effect upon becoming a law.