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AHCA and DOEA Announce New Permanent Generator Rules Have Been Filed

TALLAHASSEE, Fla. – Today, the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) filed new rule language with the Department of State to create permanent nursing home and assisted living facility rules. See [here](#) for nursing homes, and [here](#) for assisted living facilities. Governor Scott called on AHCA and DOEA to begin the permanent rule making process in October to ensure that the life-saving measures included in the emergency rules were permanently codified. This action follows emergency rules for both nursing homes and assisted living facilities that requires facilities to obtain ample resources, including a generator and the appropriate amount of fuel, to sustain operations and maintain comfortable temperatures for at least 96-hours following a power outage. The current emergency rule remains in effect.

AHCA Secretary Justin Senior said, “Following the implementation of the emergency rule on September 16, our Agency began the permanent rule making process to establish standards that would be used to ensure the health and safety of all patients in nursing homes who experience prolonged periods without power. Our goal with the permanent rule is to safeguard Florida’s most vulnerable populations who reside in nursing homes. We strongly believe that this rule will provide a safe environment and prevent tragic situations. As always, our goal with this rule is compliance and we will work to aggressively implement this new rule to protect vulnerable Floridians.”

Rule 59A-4.1265, Emergency Environmental Control for Nursing Homes does the following:

- Requires nursing homes to have an alternative power source, such as a generator, installed and maintained to sustain operations and maintain comfortable temperatures for at least 96-hours following a power outage.
- Clarifies that if there is a conflicting local ordinance restricting the maximum amount of fuel storage allowed, then the facility shall maintain the maximum amount allowable by the local ordinance or code.
- Requires that air temperatures not exceed 81 degrees Fahrenheit.
- Clarifies the area within the facility where the required temperatures are to be maintained.
- Clarifies that piped natural gas is an allowable fuel source under this rule.
- Specifies that the local emergency management agency shall post the approved facility emergency power plans on its website within 10 days of the plan’s approval.
- Requires that facilities notify families and legal representatives of patients once they submit their emergency plans to local emergency management agencies.

Rule 58A-5.036, Emergency Environmental Control for Assisted Living Facilities does the following:

- Requires nursing homes to have an alternative power source, such as a generator, installed and maintained to sustain operations and maintain comfortable temperatures for at least 96-hours following a power outage.
- Clarifies that if there is a conflicting local ordinance restricting the maximum amount of fuel storage allowed, then the facility shall maintain the maximum amount allowable by the local ordinance or code.
- Requires that air temperatures not exceed 81 degrees Fahrenheit.
- Clarifies the area within the facility where the required temperatures are to be maintained.
- Clarifies that piped natural gas is an allowable fuel source under this rule.
- Requires that facilities notify families and legal representatives of patients once they submit their emergency plans to local emergency management agencies.

DOEA Secretary Jeffrey Bragg said, "This permanent rule is aimed at saving lives. We will continue to enforce these rules and keep the public informed."

The AHCA has a rule hearing scheduled for December 5, 2017 which will allow for additional public comments.

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