

CHAPTER 168

AN ACT requiring certain health care facilities to be equipped with generators and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:2H-12.79 Definitions relative to certain health care facilities required to be equipped with generators.

1. a. As used in this section:

“Commissioner” means the Commissioner of Community Affairs;

“Department” means the Department of Community Affairs;

“Distributed Energy Resource” or “DER” means an energy efficient technology, approved by the Energy Resilience Bank, capable of supporting emergency operations in a facility during a prolonged electrical outage;

“Energy Resilience Bank” or “ERB” means the financing initiative administered through a joint collaboration by the New Jersey Board of Public Utilities and the New Jersey Economic Development Authority to provide grant or loan funding to facilities that meet specified requirements established by the ERB to aid in the cost of the installation;

“Facility” means a nursing home or assisted living facility licensed pursuant to P.L.1971 c.136 (C.26:2H-1 et seq.), a comprehensive personal care home, pediatric community transitional home, federally qualified health center, dialysis center, hospice in-patient care, or residential health care facility connected to another licensed facility;

“Generator” means an emergency power generator that is integrated with the electrical system of the facility;

“Generator ready” means equipped with an appropriate electrical transfer switch and wiring to which a portable generator can be connected in order to provide back-up electrical power; and

“Health Care Plan Review Unit” means the Health Care Plan Review Unit, or its successor, in the Department of Community Affairs.

b. Within one year of the effective date of this act, a facility shall:

(1) be equipped with an electrical transfer switch and wiring that complies with applicable standards administered by the Health Care Plan Review Unit and have a signed contract to have a generator delivered to the facility in the event of a power outage that:

(a) can be connected to the electrical transfer switch;

(b) provides backup electrical power that meets the requirements of subsection c. of this section; and

(c) complies with applicable standards administered by the Health Care Plan Review Unit; or

(2) have a signed contract to have an on-site generator installed at the facility within three years of the effective date of this act that:

(a) provides backup electrical power that meets the requirements of subsection c. of this section in the event of a power outage; and

(b) complies with applicable standards administered by the Health Care Plan Review Unit.

c. The generator or generator connection shall be capable of supporting the following for a minimum of 48 hours:

(1) critical life support equipment;

(2) refrigeration for medications and at least one refrigerator for perishable food;

(3) lighting for means of egress, exit signs, and exit directional signs as required in the NFPA 101, Life Safety Code, 2012 Edition;

(4) emergency lighting in common areas;

(5) equipment necessary for maintaining back-up communications;

(6) elevator service if required for the relocation of patients or residents within the facility or evacuation from the facility;

(7) a fire pump, well pump, or sump pump, if installed;

(8) a sewerage pump, if installed;

(9) fire, smoke and other safety detection alarm systems; and

(10) emergency lighting and power required for the generator at the generator connection point.

d. If the generator or generator connection does not provide sufficient lighting, heating, cooling and duplex receptacles to provide required services in individual sleeping rooms occupied by a patient or resident, it shall support:

(1) sufficient duplex receptacles to provide required services in common areas used to shelter patients or residents in place; and

(2) equipment to provide sufficient heating and cooling in common areas used to shelter patients or residents in place; or

(3) sufficient heating and cooling in common areas adjacent to patient or resident rooms along with sufficient duplex receptacles in patient or resident rooms to shelter in place and provide required services to patients or residents.

e. The facility shall obtain the review and approval of the Health Care Plan Review Unit for the installation of the contracted-for transfer switch and generator.

f. A facility that elects to proceed with an on-site generator shall have the on-site generator:

(1) checked weekly;

(2) tested under load monthly; and

(3) serviced in accordance with manufacturer instructions.

The facility shall maintain a log of the testing and service required by this subsection and shall provide the log to the department upon request.

g. The commissioner or his or her designee may waive the transfer switch or on-site generator requirement if, in his or her opinion, such waiver would not endanger the life, safety, or health of residents, patients or the public and the following conditions are met:

(1) the facility seeking a waiver has applied in writing to the department's Division of Certificate of Need and Licensing with the following information:

(a) a statement from the facility indicating that it has applied for an ERB grant or loan for the installation of a DER energy source and the estimated date that ERB will issue a determination approving or denying the application, or written assurance from the facility of alternative means of financing the DER energy source;

(b) a statement describing the DER energy source, the facility equipment and services the DER energy source can support, and the duration of time that the equipment and services will be supported; and

(c) if the facility is seeking an ERB grant or loan, a copy of the completed application submitted to the ERB.

(2) the facility shall supplement the waiver application by submitting a copy of:

(a) the ERB's determination letter to the department's Division of Certificate of Need and Licensing upon the facility's receipt thereof; or

(b) written confirmation of alternative means of financing.

h. The commissioner or his or her designee may request additional information before processing the request for a waiver.

i. If the commissioner or his or her designee denies a DER waiver application, the facility shall comply with the transfer switch or on-site generator requirement within one year from the date of the denial of the DER waiver.

j. A waiver request submitted for reasons other than installation of a DER energy source shall comply with N.J.A.C. 8:43E-5.6.

2. This act shall take effect on the first day of the sixth month following enactment.

Approved December 9, 2015.