

THE BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 18-28

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA, AMENDING THE PASCO COUNTY CODE, CREATING A NEW ARTICLE III OF CHAPTER 30 PROVIDING POLICY RELATING TO HEALTHCARE FACILITY DISASTER PREPAREDNESS; PROVIDING FOR HEALTHCARE COMPREHENSIVE EMERGENCY MANAGEMENT PLAN REVIEW, TRAINING, AND EXERCISE TECHNIQUES AND FEES TO COMPLY WITH THE FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION AND CENTERS FOR MEDICARE AND MEDICAID SERVICES RULES; PROVIDING FOR SEVERABILITY, APPLICABILITY, REPEALER, INCLUSION INTO THE CODE, AND AN EFFECTIVE DATE.

WHEREAS, due to the proven vulnerability of healthcare facilities to the impacts of hurricanes and other disasters, the Board of County Commissioners finds there is a need for a dedicated Emergency Management - Healthcare Operations Program to increase patient safety during emergencies and to establish a more coordinated response to disasters; and,

WHEREAS, in order to implement this Program, the Board finds that a fee should be collected from participating facilities to fund the Healthcare Operations Program to conduct all annual medical facility comprehensive emergency management plan (CEMP) reviews, facilitate at least six annual training opportunities, and facilitate at least eight exercise opportunities annually using techniques that will ensure that the healthcare facilities under review will meet the requirements of the Florida Agency for Health Care Administration (AHCA) and the requirements implemented on November 15, 2017 by the Centers for Medicare & Medicaid Services (CMS) and the Florida Administrative Code (FAC); and,

WHEREAS, Rule 27P-20.003, FAC, establishes the fees the County may collect for CEMP review; and Chapters 58A-5, 58A-6, 59A-3, 59A-4, 59A-5, and 65G-6, FAC, set out the CEMP preparation and training requirements for healthcare facilities; and,

WHEREAS, Section 252.38, Florida Statutes, establishes the emergency powers of Florida political subdivisions and such powers include the review of CEMPs prepared by healthcare facilities; and,

WHEREAS, the training and exercise opportunities will be scheduled to provide opportunities throughout the County (using east, west, and central locations), as well as the annual Countywide Emergency Management exercise which will include a health and medical component and the annual state Hurricane Emergency exercise, both typically held in the spring; and,

WHEREAS, Rule 27P-20.003, FAC, addresses comprehensive emergency management plan review fees only but does not provide a fee for providing CMS required annual training and exercise requirements from applicable healthcare facilities; and,

WHEREAS, to provide these services in accordance with Chapters 58A-5, 58A-6, 59A-3, 59A-4, 59A-5, and 65G-6, FAC, AHCA, and 42 Code of Federal Regulations (CFR) Parts 403, 418, 445, 460, 482, 483, 484, 485, 486, 491, 494, Regulation Identifier Number 0938-A091: document number 2016-21404, the Pasco County Emergency Management Division is best suited to act in this role to ensure adherence, alignment, and conformity of healthcare facilities to the County's overall Comprehensive Emergency Management Plan and its annexes; and,

WHEREAS, to provide these services in accordance with the applicable rules for the AHCA and CMS, a fee would need to be collected from the facility to cover expenses accrued for development of healthcare facility training and exercise in accordance with the CMS rule implementation; and,

WHEREAS, some facilities are not required to have a reviewed plan but are required to attend annual training and exercises, and these facilities would be charged a per bed fee to attend trainings and exercises provided by the County each year; and,

WHEREAS, it is the intent of the Board of County Commissioners to collect these fees from each facility that attends a county training and/or exercise event to fund the Healthcare Operations Program and other associated costs.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida as follows:

SECTION 1. RECITAL

The WHEREAS clauses set forth above are hereby incorporated by reference and adopted as findings of fact.

SECTION 2. AMENDMENT TO CHAPTER 30 OF THE PASCO COUNTY CODE OF ORDINANCES CREATING A NEW ARTICLE III

Chapter 30 of the Pasco County Code is hereby amended to add the following new Article III as follows:

Article III. COMPREHENSIVE EMERGENCY MANAGEMENT PLAN REVIEW, TRAINING AND EXERCISE REQUIREMENTS AND PROCEDURES FOR THE HEALTH CARE INDUSTRY

Section 30-40: Purpose.

The purpose of this Article is to address the impacts created by rules imposed by the Florida Agency for Health Care Administration (AHCA) and the federal Centers for Medicare and Medicaid Services (CMS) for the disaster preparedness of the facilities addressed in the facilities definition below.

Section 30-41: Definitions

Unless otherwise expressly stated below, for the purposes of this Article, the words terms and phrases used herein shall have the same meaning as set forth in Chapter 252, Florida Statutes, Rules 58A-6, 58A-5, 59A-3, 59A-4, 59A-5, AND 65G-6, Florida Administrative Code (FAC), and 42 Code of Federal Regulations (CFR) 403.748(d), 416.54(d), 418.113(d) and the CMS Emergency Preparedness Rule Memorandum distributed on September 8, 2016 associated with aforementioned 42 CFR sections, which are incorporated herein by reference.

“Division” means the Pasco County Emergency Management Division.

“Emergency Planning Criteria Regulations” means the federal or state regulations or law establishing the emergency planning criteria which includes a required whole community training and exercise element for which a certificate of participation must be issued by the local Emergency Management Agency, as they may be amended.

“Facilities” mean those healthcare facilities covered by this Article including:

- Birth Centers
- Abortion Clinics
- Crisis Stabilization Units
- Short Term Residential Treatment Units
- Residential Treatment Facilities
- Residential Treatment Centers for Children and Adolescents
- Hospitals
- Ambulatory Surgical Centers
- Nursing Homes
- Home Health Facilities
- Nurse Registries
- Hospices
- Prescribed Pediatric Extended Care Centers
- Home Medical Equipment Providers
- Intermediate Care Facilities for the Developmentally Disabled
- Assisted Living Facilities
- Adult Family Care Homes
- Adult Day Care Centers

“Whole Community” means involvement from the following members of the community: residents, emergency management practitioners, organizational and community leaders, and government officials.

“County Comprehensive Emergency Management Plan” means those plans developed by the Division according to the provision of Chapters 9G-6 and 9G-7, FAC, under the authority provided in Section 252.38, Florida Statutes.

“Comprehensive Emergency Management Plan” or **“Plan”** means the plan that is created and submitted by the Facilities as required by the Emergency Planning Criteria Regulations.

Section 30-42: Applicability.

(a) This Article shall apply to Facilities that are subject to the Emergency Planning Criteria Regulations which include a whole community training and exercise element; and

(b) This Article shall apply to the Facilities that are required to have an Emergency Plan Review.

(c) If additional healthcare Facilities are in the future subjected to the Emergency Planning Criteria Regulations, those Facilities will automatically fall into their applicable category(ies) upon notification by Florida Statutes, FAC, AHCA and/or CMS.

Section 30-43: Emergency Plan review.

(a) Facilities subject to Plan review. The Facilities required to have their plans reviewed and approved the Division as required by the Emergency Planning Criteria Regulations include:

1. Residential Treatment Centers for Children and Adolescents
2. Hospitals
3. Ambulatory Surgical Centers
4. Nursing Homes
5. Intermediate Care Facilities for the Developmentally Disabled
6. Assisted Living Facilities
7. Adult Day Care Centers

(b) The Division is the sole authority for review of a Facility's Plan that has emergency plan review requirements at the county level.

(c) The Division will not write the Plan for Facilities, they will only review based on criteria set forth in by Emergency Planning Criteria Regulations.

(d) The Division will work with these Facilities to accomplish an approved Plan each year.

(e) The criteria and policy for plan reviews will be made available to Facilities via the Division web page.

(f) Pasco County based Facilities shall have a “Regional Disaster Impact Annex” that will address how their facility plans to evacuate residents and personnel to an area outside of the following counties: Pasco, Hernando, Hillsborough and Pinellas, when this entire region is threatened by a natural or manmade disaster.

(g) The Plan review fee paid to the County shall be that set forth in Rule 27P-20.003, FAC.

Section 30-44: Training and Exercise.

(a) The Emergency Planning Criteria Regulations and the CMS Emergency Preparedness Rule require Facilities to participate in training and exercise by November 15th of each year.

(b) The Emergency Planning Criteria Regulations and the CMS Emergency Preparedness Rule require Facilities to participate in one (1) community wide or whole community exercise per year.

(c) The Division will provide a minimum of six (6) training opportunities and eight (8) exercise opportunities for Facilities to complete their training and exercise requirements each year.

(d) The training and exercise calendar is based on the County’s Fiscal Year (October 1 – September 30)

Section 30-45: Certification.

(a) The Division is recognized by the State of Florida (State Operations Manual Appendix Z) as an authority for certification of a Facility that participates in a whole community training or exercise event.

(b) The Division will issue Facilities certificates of participation in whole community training or exercise events within five (5) business days of completion of the training or exercise event.

(c) Certificates will be issued to both the Facility/entity and the individual(s) participating in the training or exercise event.

(d) Certificates will be issued in accordance with requirements set forth in applicable rules, codes, and/or statutes.

Section 30-46: Fee Calculation

(a) Fee Calculation:

1. Plan review fees will be paid to the County as set forth in Rule 27P-20.003 when the plan is submitted for initial review. A fee of \$250.00 for facilities licensed for 16 beds or less or a fee of \$500.00 for facilities licensed for more than 16 beds.
2. Training and exercise fees are calculated on a per bed fee based on the Facility's total number of licensed beds, or chairs (if applicable) currently \$11.71 per bed. There is no limit on the number of individuals that may attend per Facility. The fee is a per Facility fee. Once the fee has been paid for the fiscal year individuals from that Facility may attend all other trainings and exercises offered by the Division in the same fiscal year at no additional cost.
3. Facilities that require a plan review and training and exercise will pay the plan review fee and the training and exercise fee.
4. This rate may change each fiscal year and will be calculated on the loaded salary rate of the one (1) full time county employee that administers the program and the annual budgeted program costs per fiscal year divided by number of beds. Changes to the fee shall be approved by the Board by resolution.

(b) The Division shall post via the Pasco County Emergency Management web page the estimated cost for the next fiscal year by August 1 of each year.

(c) Organizations providing medical services without fixed facilities may participate in the Division's training and exercise opportunities at a cost of \$250.00 per organization annually.

SECTION 3. SEVERABILITY.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 4. APPLICABILITY.

This Ordinance shall apply in all areas of the county but if it is in conflict with a municipal ordinance if shall not be applicable with the municipality to the extent of such conflict.

SECTION 5. INCLUSION IN CODE.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Code, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. SCRIVENER'S ERROR.

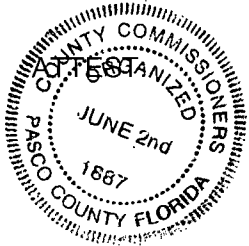
The County Attorney may correct any scrivener's error found in this ordinance by filing a corrected copy of this ordinance with Board Records.

SECTION 7. EFFECTIVE DATE.

This ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days of the adoption of this ordinance, and this ordinance shall take effect upon filing with the department of state.

ADOPTED with a quorum present and voting this 10th day of July, 2018.

(S E A L)



BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

BY: Paula S. O'Neil

Paula S. O'Neil, Ph.D.
Clerk & Comptroller

BY: [Signature]
Mike Wells, Chairman

APPROVED
IN SESSION

JUL 10 2018

PASCO COUNTY
BCC