

8208

I N S E N A T E

October 26, 2016

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, in relation to approval of the closure of nursing homes and residential health care facilities by the commissioner of health

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public health law is amended by adding a new section
2 2801-h to read as follows:
3 S 2801-H. NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY CLOSURE. 1.
4 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CLOSURE OF A
5 NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY OR SURRENDER OF AN
6 OPERATING CERTIFICATE PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO
7 REVIEW AND APPROVAL BY THE COMMISSIONER.
8 2. (A) NO LATER THAN THIRTY DAYS AFTER RECEIPT OF AN APPLICATION FOR
9 CLOSURE OF A NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY IN A CITY
10 WITH A POPULATION OF ONE MILLION OR MORE, THE COMMISSIONER SHALL SUBMIT
11 A WRITTEN REPORT TO THE COMMUNITY BOARD, THE CITY PLANNING COMMISSION,
12 THE CITY COUNCIL MEMBER REPRESENTING THE AREA WITHIN WHICH THE FACILITY
13 IS LOCATED, THE PRESIDENT OF THE BOROUGH WITHIN WHICH THE FACILITY IS
14 LOCATED, THE CONGRESSIONAL REPRESENTATIVE FOR THE DISTRICT IN WHICH THE
15 FACILITY IS LOCATED, THE STATE SENATOR AND THE ASSEMBLY MEMBER REPRESENTING
16 THE AREA WITHIN WHICH THE FACILITY IS LOCATED, AND THE CITY
17 DEPARTMENT OF HEALTH. SUCH WRITTEN REPORT SHALL INCLUDE:
18 (I) THE ANTICIPATED IMPACT OF THE NURSING HOME OR RESIDENTIAL HEALTH
19 CARE FACILITY'S CLOSURE ON ACCESS TO NURSING CARE AND HEALTH RELATED
20 SERVICES BY MEMBERS OF THE SURROUNDING COMMUNITIES;
21 (II) SPECIFIC MEASURES THE DEPARTMENT AND OTHER PARTIES HAVE TAKEN OR
22 WOULD TAKE TO AMELIORATE SUCH ANTICIPATED IMPACT ON THE COMMUNITIES;
23 (III) ANY FURTHER RECOMMENDATIONS REGARDING ACCESS TO NURSING CARE AND
24 HEALTH RELATED SERVICES IN COMMUNITIES IMPACTED BY THE CLOSURE;
25 (IV) AN ASSESSMENT OF THE ABILITY OF THE STATE TO ASSUME FINANCIAL
26 RESPONSIBILITY OR IDENTIFY AN ALTERNATE OPERATOR;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD16161-01-6

1 (V) SPECIFIC MEASURES THE DEPARTMENT WILL TAKE TO ENSURE NURSING HOME
2 AND RESIDENTIAL HEALTHCARE FACILITY RESIDENTS ARE LOCATED AND TRANS-
3 FERRED TO THE MOST INTEGRATED SETTING APPROPRIATE TO THEIR NEEDS AND
4 CONSISTENT WITH THEIR PREFERENCES; AND

5 (VI) COMPLETE COPIES OF THE APPLICATION OR REQUEST FOR CLOSURE.

6 (B) THE COMMISSIONER SHALL ALSO MAKE A FULL COPY OF SUCH REPORT AVAIL-
7 ABLE TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE.

8 (C) NO LATER THAN THIRTY DAYS AFTER RECEIPT OF AN APPLICATION FOR
9 CLOSURE OF A NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY, THE
10 COMMISSIONER SHALL MAKE AVAILABLE TO THE OPERATOR OF SUCH NURSING HOME
11 OR RESIDENTIAL HEALTH CARE FACILITY THE REPORT WITH INSTRUCTIONS TO
12 DISPLAY OR POST THE REPORT IN CONSPICUOUS PLACES WITHIN THE NURSING HOME
13 OR RESIDENTIAL HEALTH CARE FACILITY WHERE THE REPORT WILL BE EASILY
14 VISIBLE TO ALL RESIDENTS AND THEIR FAMILY MEMBERS.

15 3. SUCH COMMUNITY BOARD, CITY COUNCIL MEMBER, STATE SENATOR, ASSEMBLY
16 MEMBER, CONGRESSIONAL REPRESENTATIVE, BOROUGH PRESIDENT, CITY PLANNING
17 COMMISSION, OR CITY HEALTH DEPARTMENT MAY REVIEW AND MAKE RECOMMENDA-
18 TIONS BASED UPON SUCH WRITTEN REPORT BY THE COMMISSIONER NOT BEFORE
19 THIRTY DAYS AFTER RECEIPT THEREOF. ANY RECOMMENDATION BY SUCH COMMUNITY
20 BOARD, CITY COUNCIL MEMBER, STATE SENATOR, ASSEMBLY MEMBER, CONGRESSION-
21 AL REPRESENTATIVE, BOROUGH PRESIDENT, CITY PLANNING COMMISSION, OR CITY
22 HEALTH DEPARTMENT OF SUCH CITY SHALL BE SUBMITTED TO THE COMMISSIONER.

23 4. UPON ANY DECISION BY THE COMMISSIONER TO APPROVE OR REJECT AN
24 APPLICATION FOR CLOSURE OF A NURSING HOME OR RESIDENTIAL HEALTH CARE
25 FACILITY IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE COMMIS-
26 SIONER SHALL MAKE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE A
27 COMPLETE COPY OF THE FINAL PLAN FOR CLOSURE AND A DESCRIPTION OF ANY
28 CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF THE RECOMMENDATIONS
29 SUBMITTED BY THE COMMUNITY BOARD, CITY COUNCIL MEMBER, STATE SENATOR,
30 ASSEMBLY MEMBER, CONGRESSIONAL REPRESENTATIVE, BOROUGH PRESIDENT, CITY
31 PLANNING COMMISSION, CITY HEALTH DEPARTMENT OR MEMBER OF THE PUBLIC
32 PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

33 5. THE COMMISSIONER MAY ONLY APPROVE THE APPLICATION IF HE OR SHE
34 REASONABLY DETERMINES THAT THE NEEDS OF THE COMMUNITY AND IMPACTED
35 STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO ACCESS TO NURSING CARE AND
36 HEALTH RELATED SERVICES, CAN BE ADEQUATELY MET. NO CLOSURE SHALL BE
37 APPROVED BEFORE THIRTY DAYS AFTER THE TIME PERIOD DESCRIBED IN SUBDIVI-
38 SION THREE HAS BEEN COMPLETED.

39 6. NO CLOSURE OF A NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY
40 SHALL BE APPROVED UNDER THIS SECTION UNLESS THE COMMISSIONER COMPLIES
41 WITH THE PROVISIONS OF THIS SECTION.

42 7. THE COMMISSIONER SHALL PROMULGATE ANY RULES NECESSARY TO EFFECTUATE
43 THE PROVISIONS OF THIS SECTION.

44 S 2. This act shall take effect immediately.