S T A T E O F N E W Y O R K

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:

Section 1. The public health law is amended by adding a new section 2801-h to read as follows:

S 2801-H. NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY CLOSURE. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CLOSURE OF A NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY OR SURRENDER OF AN OPERATING CERTIFICATE PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE COMMISSIONER.

2. (A) NO LATER THAN THIRTY DAYS AFTER RECEIPT OF AN APPLICATION FOR CLOSURE OF A NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE COMMISSIONER SHALL SUBMIT A WRITTEN REPORT TO THE COMMUNITY BOARD, THE CITY PLANNING COMMISSION, THE CITY COUNCIL MEMBER REPRESENTING THE AREA WITHIN WHICH THE FACILITY IS LOCATED, THE PRESIDENT OF THE BOROUGH WITHIN WHICH THE FACILITY IS LOCATED, THE CONGRESSIONAL REPRESENTATIVE FOR THE DISTRICT IN WHICH THE FACILITY IS LOCATED, THE STATE SENATOR AND THE ASSEMBLY MEMBER REPRESENTING THE AREA WITHIN WHICH THE FACILITY IS LOCATED, AND THE CITY DEPARTMENT OF HEALTH. SUCH WRITTEN REPORT SHALL INCLUDE:

(I) THE ANTICIPATED IMPACT OF THE NURSING HOME OR RESIDENTIAL HEALTH CARE FACILITY'S CLOSURE ON ACCESS TO NURSING CARE AND HEALTH RELATED SERVICES BY MEMBERS OF THE SURROUNDING COMMUNITIES;

(II) SPECIFIC MEASURES THE DEPARTMENT AND OTHER PARTIES HAVE TAKEN OR WOULD TAKE TO AMELIORATE SUCH ANTICIPATED IMPACT ON THE COMMUNITIES;

(III) ANY FURTHER RECOMMENDATIONS REGARDING ACCESS TO NURSING CARE AND HEALTH RELATED SERVICES IN COMMUNITIES IMPACTED BY THE CLOSURE;

(IV) AN ASSESSMENT OF THE ABILITY OF THE STATE TO ASSUME FINANCIAL RESPONSIBILITY OR IDENTIFY AN ALTERNATE OPERATOR;

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

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(V) SPECIFIC MEASURES THE DEPARTMENT WILL TAKE TO ENSURE NURSING HOME AND RESIDENTIAL HEALTHCARE FACILITY RESIDENTS ARE LOCATED AND TRANSFERRED TO THE MOST INTEGRATED SETTING APPROPRIATE TO THEIR NEEDS AND CONSISTENT WITH THEIR PREFERENCES; AND

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

(B) THE COMMISSIONER SHALL ALSO MAKE A FULL COPY OF SUCH REPORT AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE.

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

3. SUCH COMMUNITY BOARD, CITY COUNCIL MEMBER, STATE SENATOR, ASSEMBLY MEMBER, CONGRESSIONAL REPRESENTATIVE, BOROUGH PRESIDENT, CITY PLANNING COMMISSION, OR CITY HEALTH DEPARTMENT MAY REVIEW AND MAKE RECOMMENDATIONS BASED UPON SUCH WRITTEN REPORT BY THE COMMISSIONER NOT BEFORE THIRTY DAYS AFTER RECEIPT THEREOF. ANY RECOMMENDATION BY SUCH COMMUNITY BOARD, CITY COUNCIL MEMBER, STATE SENATOR, ASSEMBLY MEMBER, CONGRESSIONAL REPRESENTATIVE, BOROUGH PRESIDENT, CITY PLANNING COMMISSION, OR CITY HEALTH DEPARTMENT OF SUCH CITY SHALL BE SUBMITTED TO THE COMMISSIONER.

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

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

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

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

S 2. This act shall take effect immediately.