

# STATE OF NEW YORK

4395

2017-2018 Regular Sessions

## IN ASSEMBLY

February 2, 2017

Introduced by M. of A. NIOU, ABINANTI, BARRON, BRINDISI, CARROLL, COLTON, CUSICK, DE LA ROSA, DICKENS, DILAN, GLICK, GOTTFRIED, HEVESI, KAVANAGH, KEARNS, KIM, MOSLEY, ORTIZ, PEOPLES-STOKES, PRETLOW, QUART, RICHARDSON, ROSENTHAL, SIMON, SIMOTAS, ABBATE, GJONAJ, LENTOL, SEPULVEDA -- Multi-Sponsored by -- M. of A. TITONE -- read once and referred to the Committee on Health

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 § 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 repres-  
16 enting 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;

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

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1 (ii) specific measures the department and other parties have taken or  
2 would take to ameliorate such anticipated impact on the communities;

3 (iii) any further recommendations regarding access to nursing care and  
4 health related services in communities impacted by the closure;

5 (iv) an assessment of the ability of the state to assume financial  
6 responsibility or identify an alternate operator;

7 (v) specific measures the department will take to ensure nursing home  
8 and residential healthcare facility residents are located and trans-  
9 ferred to the most integrated setting appropriate to their needs and  
10 consistent with their preferences; and

11 (vi) complete copies of the application or request for closure.

12 (b) The commissioner shall also make a full copy of such report avail-  
13 able to the public on the department's website.

14 (c) No later than thirty days after receipt of an application for  
15 closure of a nursing home or residential health care facility, the  
16 commissioner shall make available to the operator of such nursing home  
17 or residential health care facility the report with instructions to  
18 display or post the report in conspicuous places within the nursing home  
19 or residential health care facility where the report will be easily  
20 visible to all residents and their family members.

21 3. Such community board, city council member, state senator, assembly  
22 member, congressional representative, borough president, city planning  
23 commission, or city health department may review and make recommenda-  
24 tions based upon such written report. The last date for submission of  
25 recommendations shall be not less than sixty days after receipt of the  
26 written report. Any recommendation by such community board, city council  
27 member, state senator, assembly member, congressional representative,  
28 borough president, city planning commission, or city health department  
29 of such city shall be submitted to the commissioner.

30 4. Upon any decision by the commissioner to approve or reject an  
31 application for closure of a nursing home or residential health care  
32 facility in a city with a population of one million or more, the commis-  
33 sioner shall make available to the public on the department's website a  
34 complete copy of the final plan for closure and a description of any  
35 changes made to the proposed plan as a result of consultation with or  
36 recommendations submitted by the community board, city council member,  
37 state senator, assembly member, congressional representative, borough  
38 president, city planning commission, city health department or member of  
39 the public pursuant to subdivision three of this section.

40 5. The commissioner may only approve the application if he or she  
41 reasonably determines that the needs of the community and impacted  
42 stakeholders, including but not limited to access to nursing care and  
43 health related services, can be adequately met.

44 6. No closure of a nursing home or residential health care facility  
45 shall be approved under this section unless the commissioner complies  
46 with the provisions of this section.

47 7. The commissioner shall promulgate any rules necessary to effectuate  
48 the provisions of this section.

49 § 2. This act shall take effect immediately.