

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.