

# STATE OF NEW YORK

7108

## IN SENATE

(Prefiled)

January 3, 2018

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

AN ACT to amend the public health law, in relation to the closure of nursing homes

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 2827 to read as follows:

3 § 2827. Closure of nursing homes. 1. In the event that an operator of  
4 a nursing home elects to close the facility, the following shall apply:

5 (a) The operator shall notify the department in writing at least nine-  
6 ty days prior to the anticipated date of closure of the nursing home.

7 (b) The written notice shall include a proposed plan for closure of  
8 the nursing home. The plan shall be subject to approval by the commis-  
9 sioner, include timetables for all steps in the closure process and  
10 describe the procedures and actions the operator will take to:

11 (i) notify residents of the closure, including provisions for termi-  
12 nation of admission agreements and involuntary discharge;

13 (ii) assess the needs and preferences of individual residents;

14 (iii) assist residents in locating and transferring to appropriate  
15 alternative settings; and

16 (iv) maintain compliance with these regulations until all residents  
17 have relocated.

18 (c) Copies of the written notice shall be concurrently delivered to  
19 the chief executive officer and the presiding officer of the local  
20 legislative body of each county, except a county wholly contained within  
21 a city, town or village in which the nursing home is located and, in a  
22 city of a million or more population, also to the community board in  
23 whose district the nursing home is located.

24 (d) If such officer, legislative body or board has cause to suspect or  
25 believe that an operator of a nursing home is electing to close a facil-  
26 ity for reasons other than the health and safety of the residents, such  
27 officer, legislative body or board may:

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

LBD00448-07-7

1 (i) convene closed or public meetings, upon notice to the department  
2 and the nursing home operator, that must conclude within forty-five days  
3 of the operator's notice;

4 (ii) examine any information relevant to needs of the community and  
5 the impact of the closure on stakeholders; and

6 (iii) recommended to the commissioner as to whether the application  
7 for closure should be approved, modified or rejected.

8 (e) The closure plan shall be made available to the public.

9 2. (a) The operator shall take no action to close the nursing home  
10 prior to approval by the commissioner of the plan for closure.

11 (b) The operator shall not close the nursing home until all residents  
12 of the nursing home have transferred to appropriate alternative  
13 settings.

14 (c) The operator shall not increase the amount of any fees or charges  
15 charged to the residents of the nursing home, their families or their  
16 insurance companies, if any, prior to approval of the plan for closure.  
17 The operator shall not institute any new fees or charges to the resi-  
18 dents of the nursing home, their families or their insurance companies,  
19 if any, prior to approval of the plan for closure.

20 (d) The operator shall not accept new residents, admissions, or trans-  
21 fers for the nursing home, after the operator has notified the depart-  
22 ment that the operator intendeds to close the nursing home, unless (i)  
23 each such new resident, admission or transfer is notified prior to  
24 acceptance of the intended date of closure, or (ii) the operator's  
25 election to close the nursing home has been abandoned.

26 3. As part of the approval of the closure plan, the commissioner and  
27 operator shall:

28 (a) create a plan for the maintenance, storage and safekeeping, and  
29 ultimate disposition of its patient medical records and provide for the  
30 transfer or access to such records to the patients, their treating  
31 health care providers, or lawful representatives;

32 (b) create a plan to insure that arrangements for continued care which  
33 meet each resident's social, emotional and health needs, to be effect-  
34 ated prior to closure;

35 (c) implement the approved plans and prompt surrender of the operating  
36 certificate upon closure; and

37 (d) make a full copy of such plans available to the public on the  
38 department's website and shall update the posting should the plans  
39 change.

40 4. Failure of a nursing home operator to comply with any provision of  
41 this section or the terms of any agreement with or conditions imposed by  
42 the commissioner under this section shall result in the imposition of  
43 penalties under this chapter.

44 § 2. This act shall take effect on the first of April after it shall  
45 become a law, and shall apply to all closures of nursing homes occurring  
46 on or after such effective date and to all closures of nursing homes  
47 pending such effective date; provided that, effective immediately, the  
48 commissioner of health shall make regulations and take other actions  
49 reasonably necessary to implement this act on that date.