

# STATE OF NEW YORK

710

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. NIOU, ABINANTI, BARRON, CARROLL, COLTON, CUSICK, DE LA ROSA, DICKENS, DILAN, GLICK, GOTTFRIED, HEVESI, KIM, MOSLEY, ORTIZ, PEOPLES-STOKES, PRETLOW, QUART, RICHARDSON, L. ROSENTHAL, SIMON, SIMOTAS, ABBATE, LENTOL, PHEFFER AMATO, BLAKE, SEAWRIGHT -- Multi-Sponsored by -- M. of A. HYNDMAN -- read once and referred 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

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

LBD02281-01-9

1 a city, town or village in which the nursing home is located and, in a  
2 city of a million or more population, also to the community board in  
3 whose district the nursing home is located.

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

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

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

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

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

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

18 (b) The operator shall not close the nursing home until all residents  
19 of the nursing home have transferred to appropriate alternative  
20 settings.

21 (c) The operator shall not increase the amount of any fees or charges  
22 charged to the residents of the nursing home, their families or their  
23 insurance companies, if any, prior to approval of the plan for closure.  
24 The operator shall not institute any new fees or charges to the resi-  
25 dents of the nursing home, their families or their insurance companies,  
26 if any, prior to approval of the plan for closure.

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

33 3. As part of the approval of the closure plan, the commissioner and  
34 operator shall:

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

39 (b) create a plan to insure that arrangements for continued care which  
40 meet each resident's social, emotional and health needs, to be effect-  
41 uated prior to closure;

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

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

47 4. Failure of a nursing home operator to comply with any provision of  
48 this section or the terms of any agreement with or conditions imposed by  
49 the commissioner under this section shall result in the imposition of  
50 penalties under this chapter.

51 § 2. This act shall take effect on the first of April after it shall  
52 become a law, and shall apply to all closures of nursing homes occurring  
53 on or after such effective date and to all closures of nursing homes  
54 pending such effective date; provided that, effective immediately, the  
55 commissioner of health shall make regulations and take other actions  
56 reasonably necessary to implement this act on that date.