STATE OF NEW YORK

5144--A

2019-2020 Regular Sessions

IN SENATE

April 11, 2019

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the closure of hospitals or emergency or maternity departments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "local input in community healthcare act".

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

§ 2801-h. Closure of hospitals and certain hospital departments. 1. Notwithstanding any provision of law to the contrary, the closure of a general hospital or an emergency or maternity department, or surrender of an operating certificate pursuant to this article shall be subject to review and approval by the commissioner.

2. (a) When a facility applies to the commissioner for the closure of a general hospital or an emergency or maternity department, the facility must include a closure plan, including:

(1) the anticipated impact of the general hospital's or department's closure on access to health care services by members of the surrounding communities, including but not limited to recipients of medical assistance for needy persons, the uninsured, and underserved populations including people with disabilities;

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

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

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

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(4) efforts to identify an alternate operator or efforts to request that the state assess its ability to assume financial responsibility.

(b) No later than thirty days after receipt of an application for closure of a general hospital the commissioner shall submit a written notification to the county executive or president of the borough within which the facility is located, the congressional representative for the district in which the facility is located, and the state senator and the assembly member representing the area within which the facility is located, the city or county department of health, and where applicable, the community board or the city council member representing the area within which the facility is located. Such written notification shall include:

(1) a complete copy of the hospital or department closure plan; and

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

(c) The commissioner shall also make a full copy of such notification available to the public on the department's website.

(d) The commissioner shall also notify the public of such application for closure through a press release and the posting of a notice at the affected hospital.

3. Upon any decision by the commissioner to approve or reject an application for closure of a general hospital or an emergency or maternity department, the commissioner shall make available to the public on the department's website a written report including:

(a) a summary of the issues and proposals raised pursuant to subdivision one of section twenty-eight hundred one-g of this article;

(b) a statement of the reasons why any significant alternative proposals made pursuant to subdivision one of section twenty-eight hundred one-g of this article were or were not incorporated into the final closure plan;

(c) a description of any changes made to the proposed closure plan as a result of the issues or proposals raised pursuant to subdivision one of section twenty-eight hundred one-g of this article;

(d) the anticipated impact of the general hospital's or department's closure on access to health care services by members of the surrounding community, including but not limited to, recipients of medical assistance for needy persons, the uninsured, and underserved populations including people with disabilities;

(e) the specific measures the facility, the department and other parties have taken or will take to ameliorate the anticipated impact;

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

(g) any further recommendations regarding access to health care services in communities impacted by the general hospital's or emergency or maternity department's closure;

(h) information about transitional medical services to the impacted communities, including but not limited to arrangements for continuity of care; and

(i) a complete copy of the proposed decision of the commissioner regarding the closure of the hospital or emergency or maternity department, including all proposed terms, conditions and plans for providing health services to the affected communities and populations.

4. 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 emergency medical care, can be adequately met.

5. No closure shall be approved under this section unless the commissioner complies with the provisions of this section and the provisions of section twenty-eight hundred one-g of this article.

6. The commissioner shall promulgate any rules necessary to effectuate the provisions of this section.

§ 3. Section 2801-g of the public health law, as added by chapter 541 of the laws of 2010, is amended to read as follows:

§ 2801-g. Community forum on hospital closure. 1. No later than [~~thirty~~] **forty-five** days after [~~the~~] **an application for** closure of a general hospital, **or an emergency or maternity department, and at least sixty days prior to the proposed closure date,** the commissioner shall hold a public community forum for the purpose of obtaining public input concerning the anticipated impact of the general hospital's **or emergency or maternity department's** closure on access to health care services by members of the surrounding community, including but not limited to recipients of medical assistance for needy persons, the uninsured, and underserved populations **including people with disabilities**, and options and proposals to ameliorate such anticipated impact. The commissioner shall afford community members, health care providers, labor unions, payers, businesses [~~and~~]**,** consumers**, the congressional representative for the district in which the facility is located, the county executive or president of the borough within which the facility is located, the state senator and assembly member representing the area within which the facility is located, and the community board and the city council member representing the area within which the facility is located where applicable,** a reasonable opportunity to speak about relevant matters at such community forum. **The commissioner shall also accept comments submitted in writing at such public forum and by mail within at least two weeks following the community forum. At least ten days prior to such community forum, the commissioner shall release publicly and post on its website a complete copy of the commissioner's notification related to the closure required by subdivision three of section twenty-eight hundred one-h of this article.**

2. [~~No later than sixty days after holding a community forum pursuant to subdivision one of this section, the commissioner shall make available to the public on the department's website information regarding:~~

~~(a) the anticipated impact of the general hospital's closure on access to health care services by members of the surrounding community, including but not limited to recipients of medical assistance for needy persons, the uninsured, and underserved populations;~~

~~(b) specific measures the department and other parties have taken or will take to ameliorate such anticipated impact; and~~

~~(c) any further recommendations regarding access to health care services in communities impacted by the general hospital's closure.~~

~~3.~~] A community forum conducted pursuant to this section shall be held at a location within a reasonable proximity to the general hospital subject to closure, and shall be announced no less than ten days prior to the date of such community forum.

§ 4. This act shall take effect immediately.