STATE OF NEW YORK

2847

2021-2022 Regular Sessions

IN SENATE

January 26, 2021

Introduced by Sens. KAVANAGH, SEPULVEDA -- 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:

Section 1. The public health law is amended by adding a new section 2828 to read as follows:

§ 2828. Closure of nursing homes. 1. In the event that an operator of a nursing home elects to close the facility, the following shall apply:

(a) The operator shall notify the department in writing at least ninety days prior to the anticipated date of closure of the nursing home.

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

(i) notify residents of the closure, including provisions for termination of admission agreements and involuntary discharge;

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

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

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

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

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

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

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

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

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

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

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

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

(c) The operator shall not increase the amount of any fees or charges charged to the residents of the nursing home, their families or their insurance companies, if any, prior to approval of the plan for closure. The operator shall not institute any new fees or charges to the residents of the nursing home, their families or their insurance companies, if any, prior to approval of the plan for closure.

(d) The operator shall not accept new residents, admissions, or transfers for the nursing home, after the operator has notified the department that the operator intendeds to close the nursing home, unless (i) each such new resident, admission or transfer is notified prior to acceptance of the intended date of closure, or (ii) the operator's election to close the nursing home has been abandoned.

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

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

(b) create a plan to insure that arrangements for continued care which meet each resident's social, emotional and health needs, to be effectuated sixty days prior to closure;

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

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

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

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