STATE OF NEW YORK

1633--A

Cal. No. 47

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. SIMON, CRUZ, REYES, GLICK, WEPRIN, BURDICK, JACOBSON, OTIS, CUNNINGHAM, SEAWRIGHT, SANTABARBARA, MITAYNES, GONZALEZ-ROJAS, COLTON, FORREST, PHEFFER AMATO, BARRETT, SHRESTHA, LEVENBERG, ARDILA, MAMDANI, DINOWITZ, TAPIA, LEE -- Multi-Sponsored by -- M. of A. CARROLL, COOK, DAVILA, EPSTEIN, HEVESI, PAULIN, STECK, WALKER -- read once and referred to the Committee on Health -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law, in relation to providing public notice and public engagement when a general hospital seeks to close entirely or a unit that provides maternity, mental health or substance use care

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

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

§ 2. Section 2801-g of the public health law, as added by chapter 541 of the laws of 2010, subdivision 4 as added by section 3 of part E of chapter 57 of the laws of 2023, is amended to read as follows:

§ 2801-g. Community [~~forum~~] **notice and engagement** on hospital closure. 1. **Written notification of a proposed closure of a general hospital or unit of a general hospital must be provided to the department and all parties listed in subdivision seven of this section no later than two hundred seventy days prior to the proposed closure date. As used in this section, "unit" means a portion of a general hospital that offers emergency, maternity, and mental health or substance use services. "Unit" shall also mean any other hospital service or health-related service of a hospital, including specialty care services, if the proposed closure will result in the reduction or unavailability of such services in the hospital's service area or county where it is located.**

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

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2. A general hospital that seeks to close entirely or close one or more units shall submit an application that requires review and approval by the public health and health planning council, or any successor entity. The application for the closure shall include a health equity impact assessment, as defined by section twenty-eight hundred two-b of this article, and a proposed closure plan. The application shall be submitted at least two hundred ten days before the proposed closure. No cessation, pause, transfer, or limitation of service may be carried out without prior written approval by the commissioner. As used in this section, "transfer of services" shall include conversion of services from inpatient to outpatient services, the moving of services to other facilities, or the transfer of personnel that would constitute a reduction or unavailability of services.

3. No later than [~~thirty~~] **one hundred fifty** days [~~after~~] **prior to** the **proposed** closure of a general hospital **or a unit of a general hospital**, 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 general hospital unit'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 **medically** underserved populations **as defined in paragraph (d) of subdivision one of section twenty-eight hundred two-b of this article**, and options and proposals to ameliorate such anticipated impact. The commissioner shall afford community members, health care providers, labor unions, payers, businesses and consumers a reasonable opportunity to speak about relevant matters at such community forum.

[~~2.~~] **4.** No later than [~~sixty~~] **thirty** days [~~after~~] **before** holding a community forum pursuant to subdivision [~~one~~] **three** of this section, the commissioner shall make available to the public on the department's website information regarding:

(a) **the proposed closure plan submitted by the health facility;**

(b) the anticipated impact of the general hospital's closure **or unit'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)~~] **(c)** specific measures the department and other parties have taken or will take to ameliorate such anticipated impact **including but not limited to ensuring that the services to be eliminated would be available to Medicaid, or individuals that are insured by a publicly-subsidized plan and uninsured patients at the surrounding area facilities that are taking new patients**; and

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

[~~3.~~] **5.** A community forum conducted pursuant to this section shall be held at a location within a reasonable proximity to the general hospital **or unit** subject to **the proposed** closure, and shall be announced no less than [~~ten~~] **fourteen** days prior to the date of such community forum**. Such forum shall be held at a proper time and be accessible to the impacted community virtually and physically**.

[~~4.~~] **6.** At least thirty days prior to a general hospital applying to the federal centers for medicare and medicaid services to convert from a general hospital with inpatients to a rural emergency hospital under 42 USC 1395x(kkk), or successor provisions, such **general** hospital shall hold a public community forum for the purpose of obtaining public input concerning the anticipated impact of the **general** hospital's closure of

inpatient units, including but not limited to, the impact on recipients of medical assistance for needy persons, the uninsured, people with disabilities, and medically underserved populations, and options and proposals to ameliorate such anticipated impact.

[~~the~~] **7. No later than thirty days prior to a community forum under this section, the general** hospital shall notify health care providers, labor unions, the [~~congressional~~] **local, state, and federal legislative** representative**, the office of the attorney general, the county executive, mayor, town supervisor, and in the case of the city of New York, the borough president, and community board** for [~~the~~] **every** district in which the [~~facility~~] **general hospital and unit** is **or are** located, [~~the county executive of the county in which the facility is located, and the state senator and assembly member representing the area within which the facility is located~~] of the date, time, and location of the community forum. The **general** hospital shall afford all public participants a reasonable opportunity to speak about relevant matters at such community forum. Prior to any community forum and as soon as practicable, the **general** hospital shall be required to:

(a) notify the office of mental health and the local director of community services in the event such general hospital has psychiatric inpatient beds licensed under article thirty-one of the mental hygiene law or designated pursuant to section 9.39 of the mental hygiene law, and

(b) notify the office of addiction services and supports in the event such general hospital has inpatient substance use disorder treatment programs or inpatient chemical dependence treatment programs licensed under article thirty-two of the mental hygiene law. The commissioner shall also accept comments submitted in writing at such public forum and by mail **or electronic mail** within at least two weeks following the community forum.

8. No later than thirty days after the community forum, the general hospital shall submit a revised closure plan to the department addressing concerns raised by community stakeholders during the community forum. The general hospital and the department shall make the revised closure plan publicly available on their websites no later than forty-five days after the community forum.

9. No later than January first two thousand twenty-five and annually thereafter, the commissioner shall provide a report to the legislature, including but not limited to, identifying the general hospital or unit of a general hospital that has provided written notice of a closure, the proposed closure date and the services impacted by the proposed closure. Such report shall be provided in electronic format and shall be distributed to the temporary president and minority leader of the senate, the speaker and minority leader of the assembly, the chair of the senate standing committee on health, and the chair of the assembly health committee.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law, and shall not apply to any matter subject to section 2801-g of the public health law that is pending on the date it shall take effect.