

SENATE No. 1199

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer L. Flanagan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the closing of hospital essential services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/25/2017</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/26/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/26/2017</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>	<i>1/26/2017</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>	<i>1/26/2017</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/27/2017</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>1/27/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/27/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/31/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/31/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/31/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/31/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/1/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>

<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/2/2017</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>	<i>2/2/2017</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>2/2/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/3/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/3/2017</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>2/3/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/3/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/3/2017</i>

SENATE No. 1199

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1199) of Jennifer L. Flanagan, Richard J. Ross, Angelo J. Puppolo, Jr., Jack Lewis and other members of the General Court for legislation relative to the closing of hospital essential services. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1149 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the closing of hospital essential services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by striking subsection (4) of section 51G and inserting in place thereof the
3 following section:

4 (4) (a) At least 30 days prior to notifying the department of the proposed closure or
5 discontinuance of an essential health service, the hospital shall inform either electronically or in
6 writing the Department and the following parties of its intent to submit notice to close a service:

7 (a) The hospital’s patient and family council; (b) Each staff member of the hospital; (c) Every
8 labor organization that represents the hospital’s workforce during the period of the essential
9 services closure; (d) The members of the General Court who represent the city or town in which

10 the hospital is located; and; (e) A representative of the local officials of the city or town in which
11 the hospital is located. The department shall define essential services according to 105 CMR 130.

12 (b) At least 30 days prior to notifying the department of the proposed closure of an
13 essential health service, a detailed account of any community engagement and planning which
14 has occurred prior to such filing, and such other information as the Commissioner may require
15 shall be presented to the department. With respect to the proposed closure of an essential health
16 service, the hospital shall also send a copy of the notice that it submits to the Department to the
17 Health Policy Commission, Office of the Attorney General, Center for Health Information and
18 Analysis, and Executive Office of Labor and Workforce Development as well as each of the
19 health care coalitions and community groups identified by the hospital in its notice to the
20 department.

21 (c) The hospital proposing the discontinuance shall provide, with their initial notice to the
22 department, evidence of support or non-opposition to the proposed change from each
23 municipality to which it provides the service as a health care resource, as determined pursuant to
24 section 16T of chapter 6A of the General Laws, or, if a statement of non-opposition cannot be
25 obtained, evidence of having given notice and allowed an opportunity for comment from said
26 municipalities. Any information given without meeting the requirements of this paragraph shall
27 not constitute notice to the department for the purpose of establishing the earliest date on which
28 the hospital may close or discontinue an essential health service.

29 (d) The department shall, in the event that a hospital proposes to discontinue an essential
30 health service or services, determine whether any such discontinued services are necessary for
31 preserving access and health status in the hospital's service area, require hospitals to submit a

32 plan for assuring access to such necessary services following the hospitals closure of the service,
33 and assure continuing access to such services in the event that the department determines that
34 their closure will significantly reduce access to necessary services. This plan shall include the
35 creation of a community oversight committee comprised of a representative from each
36 municipality to which the hospital provides the service as a health care resource as well as non-
37 managerial employees, including registered nurses and ancillary staff, from the hospital, and a
38 representative from a local interfaith organization to ensure that any plan approved by the
39 department is followed. The community oversight group shall inform the department in the event
40 the plan is not executed and followed by the hospital. If the hospitals plan for assuring
41 continued access to a necessary service relies upon the availability of similar services at another
42 hospital or health facility with which it does not share common ownership, the department shall
43 require the hospital to submit with said plan a statement from each other hospital or health
44 facility listed in the plan, affirming their capacity to provide continued access as described in the
45 plan. The department shall conduct a public hearing prior to a determination on the closure of
46 said essential services or of the hospital. No original license shall be granted to establish or
47 maintain an acute-care hospital, as defined by section 25B, unless the applicant submits a plan, to
48 be approved by the department, for the provision of community benefits, including the
49 identification and provision of essential health services. In approving the plan, the department
50 may take into account the applicants existing commitment to primary and preventive health care
51 services and community contributions as well as the primary and preventive health care services
52 and community contributions of the predecessor hospital. The department may waive this
53 requirement, in whole or in part, at the request of the applicant which has provided or at the time

54 the application is filed, is providing, substantial primary and preventive health care services and
55 community contributions in its service area.

56 (e) If a hospital executes a plan to discontinue an essential health service, said plan not
57 having been approved by the department pursuant to paragraphs (a) and (b) of this section, the
58 Attorney General shall seek an injunction to require that the essential health service be
59 maintained for the duration of the notice period outlined in paragraph (a) of this section. that
60 hospital shall not be eligible to have an application approved pursuant to section 25C for a period
61 of three years from the date the service is discontinued, or until the essential health service is
62 restored, or until such time as the department is satisfied that a plan is in place that, at the time of
63 the discontinuance, would have met the requirements of paragraph (b)