

SENATE No. 2542

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

4 (4) (a) Any hospital shall inform the department 90 days prior to the closing of the
5 hospital or the discontinuance of any essential health service provided therein. Adequate notice
6 shall, at a minimum, require submission of documentation of notices received by primary service
7 area stakeholders regarding the closure or discontinuation of an essential health service. Primary
8 service area stakeholders shall include but are not limited to: (a) The hospital's patient and
9 family council; (b) All staff members of the hospital; (c) Any labor organization that is currently
10 representing any members of the hospital's workforce; (d) Any members of the General Court
11 who represent the city or town in the hospital's primary service area; and; (e) A representative of
12 the local officials of each city or town in the hospital's primary service area. The department
13 shall define essential services for the purposes of this section.

14 (b) After filing adequate notice with the department, but prior to the date of a public
15 hearing conducted by the department, the hospital shall meet with stakeholders in its primary
16 service area to discuss the causes and impacts of the closure or discontinuation of an essential
17 health service. The hospital must submit testimony at the public hearing conducted by the
18 department demonstrating the occurrence and nature of the engagement with those primary
19 service area stakeholders.

20 (c) The department shall, in the event that a hospital proposes to discontinue an essential
21 health service or services, determine whether any such discontinued services are necessary for
22 preserving access and health status in the hospital's service area, require hospitals to submit a
23 plan for assuring access to such necessary services following the hospitals closure of the service,
24 and assure continuing access to such services in the event that the department determines that
25 their closure will significantly reduce access to necessary services. This plan shall address any
26 concerns or suggestions raised by primary service area stakeholders during the engagement
27 process. The department shall conduct a public hearing prior to a determination on the closure of
28 said essential services or of the hospital. No original license shall be granted to establish or
29 maintain an acute-care hospital, as defined by section 25B, unless the applicant submits a plan, to
30 be approved by the department, for the provision of community benefits, including the
31 identification and provision of essential health services. In approving the plan, the department
32 may take into account the applicants existing commitment to primary and preventive health care
33 services and community contributions as well as the primary and preventive health care services
34 and community contributions of the predecessor hospital. The department may waive this
35 requirement, in whole or in part, at the request of the applicant which has provided or at the time

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

38 (d) If a hospital executes a plan to discontinue an essential health service, said plan not
39 having been approved by the department pursuant to paragraphs (a) and (b) of this subsection,
40 the department shall refer the matter to the Attorney General to seek an injunction to require that
41 the essential health service be maintained for the duration of the notice period outlined in
42 paragraph (a) of this section, and any other appropriate equitable relief.