

116TH CONGRESS
2D SESSION

H. R. 5681

To amend the Public Health Service Act to require hospitals to submit notice to the Secretary of Health and Human Services before closing all or certain units or departments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2020

Mr. BRENDAN F. BOYLE of Pennsylvania introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to require hospitals to submit notice to the Secretary of Health and Human Services before closing all or certain units or departments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Commu-
5 nities from Hospital Closures Act of 2020”.

1 **SEC. 2. HOSPITAL CLOSINGS.**

2 (a) IN GENERAL.—Part C of title III of the Public
3 Health Service Act (42 U.S.C. 248 et seq.) is amended
4 by adding at the end the following:

5 **“SEC. 327B. HOSPITAL CLOSINGS.**

6 “(a) NOTICE REQUIREMENT.—

7 “(1) REQUIREMENT.—A hospital shall provide
8 written notice to the Secretary of a determination—

9 “(A) to close all or most of its units or de-
10 partments (in this section referred to as a ‘gen-
11 eral hospital closing’); or

12 “(B) to close an emergency treatment unit
13 or department, a labor and delivery unit or de-
14 partment, or any other type of unit or depart-
15 ment that the Secretary determines, by regula-
16 tion, might significantly impact the health and
17 welfare of an affected community such that ad-
18 vanced notice and planning is warranted (in
19 this section referred to as a ‘significant impact
20 unit closing’).

21 “(2) TIMING.—A hospital shall give notice re-
22 quired by paragraph (1)—

23 “(A) upon making a determination to close
24 described in such paragraph; and

25 “(B) in no event less than 180 days from
26 the anticipated date of the closing.

1 “(b) PROHIBITION AGAINST CLOSING EXCEPT PUR-
2 SUANT TO CLOSURE PLAN.—

3 “(1) PROHIBITION.—A hospital shall not close
4 any unit or department as part of a general hospital
5 closing or a significant impact unit closing except
6 pursuant to a written closure plan that has been ap-
7 proved by the Secretary with respect to such unit or
8 department.

9 “(2) APPROVAL STANDARD.—The Secretary
10 shall approve a closure plan with respect to the clos-
11 ing of a unit or department only if the Secretary de-
12 termines that the closure plan adequately address-
13 es—

14 “(A) continuity of patient care; and

15 “(B) the health and safety needs of the
16 community served by the unit or department.

17 “(3) MODIFICATION.—The Secretary may con-
18 dition approval under paragraph (2) on the agree-
19 ment by the hospital to modify the closure plan to
20 include such conditions as the Secretary determines
21 to be necessary meet the approval standard of para-
22 graph (2).

23 “(4) NOTIFICATION TO CONGRESS.—The Sec-
24 retary shall promptly provide written notice to the
25 Congress upon receiving, approving, rejecting, or re-

1 quiring a modification to a closure plan under this
2 section.

3 “(c) CLOSURE PLANS.—

4 “(1) INITIAL CLOSURE PLAN.—A hospital seek-
5 ing to carry out a general hospital closing or a sig-
6 nificant impact unit closing shall submit to the Sec-
7 retary—

8 “(A) not later than 120 days before the
9 anticipated date of the closing, an initial closure
10 plan; and

11 “(B) not less than every 2 weeks there-
12 after, through the completion of the proposed
13 closing, updates on the progress of the hospital
14 in—

15 “(i) finalizing the closure plan; and

16 “(ii) implementing the closing.

17 “(2) MEETINGS, DISCUSSIONS, AND DOCU-
18 MENTS.—Upon receipt of a closure plan from a hos-
19 pital, the Secretary may, for the purpose of evalu-
20 ating the proposed plan and overseeing the imple-
21 mentation of the plan, require—

22 “(A) attendance at meetings, and involve-
23 ment in discussions, by executive staff and ad-
24 ministrators of the hospital; and

1 “(B) provision by the hospital to the Sec-
2 retary of relevant information and documents.

3 “(3) CONTENTS OF CLOSURE PLAN.—A closure
4 plan under this section shall address the following:

5 “(A) The reasons for the closing.

6 “(B) Any plans for the closing of all major
7 departments and units of the hospital, including
8 with respect to—

9 “(i) continuity of patient care in each
10 department and unit; and

11 “(ii) the transfer of patients to other
12 facilities.

13 “(C) Plans with respect to specialized pro-
14 grams or groups of patients particularly vulner-
15 able to interruptions in medical care, such as
16 cancer chemotherapy or prenatal care.

17 “(D) Any plans for the closure of an emer-
18 gency department, including diversion to other
19 hospital emergency departments and the inter-
20 face with emergency medical services.

21 “(E) Written agreements with other health
22 care providers to accept responsibility for con-
23 tinuing the care of patients receiving ongoing
24 care at the hospital.

25 “(F) Plans for—

1 “(i) how all medical records (including
2 paper and electronic records) will be main-
3 tained throughout and after the closing;
4 and

5 “(ii) how those medical records will be
6 made available to former patients and the
7 physicians who provide care for such pa-
8 tients.

9 “(G) Plans for the maintenance, transfer,
10 and disposal of pharmaceuticals, chemicals, haz-
11 ardous substances, and other similar materials
12 located at the unit or department subject to the
13 closing.

14 “(H) The anticipated timeline for closing
15 the units or departments subject to the closing.

16 “(I) A communications and engagement
17 plan with respect to the affected community, in-
18 cluding plans for a public meeting to be held in
19 the affected community.

20 “(J) Changes in the hospital’s governing
21 body, administration, and medical staff leader-
22 ship as the closure is implemented.

23 “(K) A plan regarding the hospital’s ef-
24 forts to assist affected workers and students
25 with—

1 “(i) finding suitable employment and
2 educational opportunities; and

3 “(ii) continuation of insurance.

4 “(L) Plans to address the effects on bar-
5 gaining for represented employees.

6 “(M) An assurance that existing agree-
7 ments between the hospital and its employees,
8 and agreements subject to collective bargaining
9 with an organization that represents hospital
10 employees, will be honored.

11 “(N) Plans with respect to maintaining on-
12 going hospital security.

13 “(O) Plans for supervising compliance
14 with, and updates of, the closure plan.

15 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed as creating obligations for the Fed-
17 eral Government to relieve, discharge, perform, indemnify,
18 or assume liability for any obligation or responsibility of
19 a hospital or any of its officers, directors, or affiliates.

20 “(e) VIOLATIONS.—

21 “(1) DETERMINATION OF VIOLATION.—If the
22 Secretary determines that a hospital has violated or
23 is violating any provision of this section, the Sec-
24 retary may institute an action in a Federal court of

1 competent jurisdiction to compel compliance with
2 this section.

3 “(2) JUDICIAL REMEDIES.—If a court finds,
4 pursuant to an action instituted pursuant to para-
5 graph (1), that a hospital has violated or is violating
6 any provision of this section, the court may—

7 “(A) enjoin the hospital from carrying out
8 any action in furtherance of closing a unit or
9 department until the hospital has given proper
10 notice and otherwise complied with this section;

11 “(B) appoint a special master or tem-
12 porary manager to ensure that the hospital sub-
13 mits a closure plan in accordance with this sec-
14 tion and complies with such closure plan; and

15 “(C) grant such other and further relief as
16 the court may deem just, proper, and equitable
17 under the circumstances.”.

18 (b) APPLICABILITY.—The amendment made by sub-
19 section (a) applies with respect to any closing that occurs
20 after the date of enactment of this Act.

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