

SENATE No. 2074

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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 2012 Official
2 Edition, is hereby amended by striking subsection (4) of section 51G and inserting in place
3 thereof the following section:—

4 (4) (a) Any hospital shall give notice to the department 120 days prior to the closing of
5 the hospital or the discontinuance of any essential health service provided therein. The
6 department shall by regulation define “essential health service” for the purposes of this section.
7 The hospital proposing the discontinuance shall provide, with their initial notice to the
8 department, evidence of support or non-opposition to the proposed change from each
9 municipality to which it provides the service as a health care resource, as determined pursuant to
10 section 16T of chapter 6A of the General Laws, or, if a statement of non-opposition cannot be
11 obtained, evidence of having given notice and allowed an opportunity for comment from said
12 municipalities. Any information given without meeting the requirements of this paragraph shall
13 not constitute notice to the department for the purpose of establishing the earliest date on which
14 the hospital may close or discontinue an essential health service.

15 (b) The department shall, in the event that a hospital proposes to discontinue an essential
16 health service or services, determine whether any such discontinued services are necessary for
17 preserving access and health status in the hospital’s service area, require hospitals to submit a
18 plan for assuring access to such necessary services following the hospital’s closure of the
19 service, and assure continuing access to such services in the event that the department determines
20 that their closure will significantly reduce access to necessary services. If the hospital’s plan for
21 assuring continued access to a necessary service relies upon the availability of similar services at
22 another hospital or health facility with which it does not share common ownership, the
23 department shall require the hospital to submit with said plan a statement from each other

24 hospital or health facility listed in the plan, affirming their capacity to provide continued access
25 as described in the plan. The department shall conduct a public hearing prior to a determination
26 on the closure of said essential services or of the hospital. No original license shall be granted to
27 establish or maintain an acute-care hospital, as defined by section 25B, unless the applicant
28 submits a plan, to be approved by the department, for the provision of community benefits,
29 including the identification and provision of essential health services. In approving the plan, the
30 department may take into account the applicant's existing commitment to primary and preventive
31 health care services and community contributions as well as the primary and preventive health
32 care services and community contributions of the predecessor hospital. The department may
33 waive this requirement, in whole or in part, at the request of the applicant which has provided or
34 at the time the application is filed, is providing, substantial primary and preventive health care
35 services and community contributions in its service area.

36 (c) If a hospital executes a plan to discontinue an essential health service, said plan not
37 having been approved by the department pursuant to paragraphs (a) and (b) of this section, that
38 hospital shall not be eligible to have an application approved pursuant to section 25C for a period
39 of three years from the date the service is discontinued, or until the essential health service is
40 restored, or until such time as the department is satisfied that a plan is in place that, at the time of
41 the discontinuance, would have met the requirements of paragraph (b)

42 (d) If a hospital executes a plan to discontinue an essential health service, said plan not
43 having been approved by the department pursuant to paragraphs (a) and (b) of this section, that
44 hospital shall not be eligible to receive funding under sections 2PPP or 2GGGG of Chapter 29,
45 or under section 2G of Chapter 111, for a period of three years from the date the service is
46 discontinued, or until the essential health service is restored, or until such time as the department
47 is satisfied that a plan is in place that, at the time of the discontinuance, would have met the
48 requirements of paragraph (b)