

SENATE No. 1149

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:
Jennifer L. Flanagan	Worcester and Middlesex
Claire D. Cronin	11th Plymouth
Kimberly N. Ferguson	1st Worcester
Marjorie C. Decker	25th Middlesex
John J. Lawn, Jr.	10th Middlesex
Tackey Chan	2nd Norfolk
Jennifer E. Benson	37th Middlesex
Paul W. Mark	2nd Berkshire
Benjamin B. Downing	Berkshire, Hampshire, Franklin and Hampden
Stephen L. DiNatale	3rd Worcester
James J. Dwyer	30th Middlesex
Mary S. Keefe	15th Worcester
Danielle W. Gregoire	4th Middlesex
James B. Eldridge	Middlesex and Worcester
Jason M. Lewis	Fifth Middlesex
Michael D. Brady	Second Plymouth and Bristol
Michael O. Moore	Second Worcester

<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

SENATE No. 1149

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1149) of Jennifer L. Flanagan, Claire D. Cronin, Kimberly N. Ferguson, Marjorie C. Decker 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. 2074 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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 Edition,
2 is hereby amended by striking subsection (4) of section 51G and inserting in place thereof the
3 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 define essential services according to 105 CMR 130. The hospital proposing the
7 discontinuance shall provide, with their initial notice to the department, evidence of support or
8 non-opposition to the proposed change from each municipality to which it provides the service as
9 a health care resource, as determined pursuant to section 16T of chapter 6A of the General Laws,
10 or, if a statement of non-opposition cannot be obtained, evidence of having given notice and

11 allowed an opportunity for comment from said municipalities. Any information given without
12 meeting the requirements of this paragraph shall not constitute notice to the department for the
13 purpose of establishing the earliest date on which the hospital may close or discontinue an
14 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 hospitals closure of the service,
19 and assure continuing access to such services in the event that the department determines that
20 their closure will significantly reduce access to necessary services. This plan shall include the
21 creation of a community oversight committee comprised of a representative from each
22 municipality to which the hospital provides the service as a health care resource as well as non-
23 managerial employees, including registered nurses and ancillary staff, from the hospital, and a
24 representative from a local interfaith organization to ensure that any plan approved by the
25 department is followed. The community oversight group shall inform the department in the event
26 the plan is not executed and followed by the hospital. If the hospitals plan for assuring
27 continued access to a necessary service relies upon the availability of similar services at another
28 hospital or health facility with which it does not share common ownership, the department shall
29 require the hospital to submit with said plan a statement from each other hospital or health
30 facility listed in the plan, affirming their capacity to provide continued access as described in the
31 plan. The department shall conduct a public hearing prior to a determination on the closure of
32 said essential services or of the hospital. No original license shall be granted to establish or
33 maintain an acute-care hospital, as defined by section 25B, unless the applicant submits a plan, to

34 be approved by the department, for the provision of community benefits, including the
35 identification and provision of essential health services. In approving the plan, the department
36 may take into account the applicants existing commitment to primary and preventive health care
37 services and community contributions as well as the primary and preventive health care services
38 and community contributions of the predecessor hospital. The department may waive this
39 requirement, in whole or in part, at the request of the applicant which has provided or at the time
40 the application is filed, is providing, substantial primary and preventive health care services and
41 community contributions in its service area.

42 (c) 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, the
44 Attorney General shall seek an injunction to require that the essential health service be
45 maintained for the duration of the notice period outlined in paragraph (a) of this section. that
46 hospital shall not be eligible to have an application approved pursuant to section 25C for a period
47 of three years from the date the service is discontinued, or until the essential health service is
48 restored, or until such time as the department is satisfied that a plan is in place that, at the time of
49 the discontinuance, would have met the requirements of paragraph (b).