SENATE DOCKET, NO. 2120 FILED ON: 1/18/2019

SENATE . . . . . No. 672

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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:	
Julian Cyr	*Cape and Islands*	
Timothy R. Whelan	*1st Barnstable*	*1/23/2019*
Walter F. Timilty	*Norfolk, Bristol and Plymouth*	*1/29/2019*
Mary S. Keefe	*15th Worcester*	*1/29/2019*
Michael O. Moore	*Second Worcester*	*1/29/2019*
Patrick M. O'Connor	*Plymouth and Norfolk*	*1/30/2019*
Adam G. Hinds	*Berkshire, Hampshire, Franklin and Hampden*	*1/30/2019*
Diana DiZoglio	*First Essex*	*1/30/2019*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*1/31/2019*
David Henry Argosky LeBoeuf	*17th Worcester*	*1/31/2019*
Mike Connolly	*26th Middlesex*	*1/31/2019*
David Allen Robertson	*19th Middlesex*	*2/1/2019*
Jack Patrick Lewis	*7th Middlesex*	*2/1/2019*
Marc R. Pacheco	*First Plymouth and Bristol*	*2/1/2019*
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	*2/1/2019*
James K. Hawkins	*2nd Bristol*	*2/11/2019*
James B. Eldridge	*Middlesex and Worcester*	*2/11/2019*

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By Mr. Cyr, a petition (accompanied by bill, Senate, No. 672) of Julian Cyr, Timothy R. Whelan, Walter F. Timilty, Mary S. Keefe and other members of the General Court for legislation relative to the closing of hospital essential services. Health Care Financing.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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:

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

(4)(a) A hospital shall notify the department of a proposed closure at least one calendar year in advance of the date of the proposed closure or discontinuance of an essential health service.

(b) At least 30 days prior to notifying the department of the proposed closure or discontinuance of an essential health service, the hospital shall inform either electronically or in writing the Department and the following parties of its intent to submit notice to close a service: (a) The hospital's patient and family council; (b) Each staff member of the hospital; (c) Every labor organization that represents the hospital's workforce during the period of the essential services closure; (d) The members of the General Court who represent the city or town in which

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

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

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

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

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

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

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