

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 hospital closures and health planning.

PETITION OF:

NAME:

John F. Keenan

DISTRICT/ADDRESS:

Norfolk and Plymouth

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 761 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to hospital closures and health planning.

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. Section 16T of chapter 6A of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking subsection (a) and inserting in place thereof the
3 following:-

4 (a) There shall be a health planning council within the executive office of health and
5 human services whose purpose shall be to develop and update not less than every 2 years a state
6 health plan as described in this section. The council shall consist of the secretary of health and
7 human services, or a designee, who shall serve as chair; the commissioner of public health or a
8 designee; the director of the office of Medicaid or a designee; the commissioner of mental health
9 or a designee; the secretary of elder affairs or a designee; the executive director of the center for
10 health information and analysis or a designee; the executive director of the health policy
11 commission or a designee; 3 members appointed by the governor, 1 of whom shall be a health

12 economist; 1 of whom shall have experience in health policy and planning; and 1 of whom shall
13 have experience in healthcare market planning and service line analysis.

14 The council shall assemble an advisory committee of not more than 13 members who
15 shall reflect a broad distribution of diverse perspectives on the healthcare system, including
16 healthcare providers and provider organizations, community health centers, academic
17 institutions, healthcare workforce development, third-party payers, both public and private,
18 consumer representatives and labor organizations representing healthcare workers. The advisory
19 committee shall review drafts and provide recommendations to the council for the development,
20 and each update, of the plan.

21 The council chair shall establish processes to ensure public access to the most current
22 version of the state health plan, and to allow interested persons to submit testimony toward the
23 development and updating of the plan, which shall include public hearings in geographically
24 diverse areas, and a website to allow members of the public to submit comments electronically
25 and review comments submitted by others.

26 The state health plan shall identify needs of the commonwealth in healthcare services,
27 providers, programs and facilities; the resources available to meet those needs; and the priorities
28 for addressing those needs. To assess and report on such needs, the council shall establish not
29 fewer than fifteen health planning regions to reflect variance in the service needs and resource
30 capacities across the different geographies of the commonwealth. The assessments, findings and
31 recommendations of the council shall be presented according to said planning regions, taking
32 into consideration each region's chronic disease data, health outcomes data, population
33 characteristics, transportation resources and travel considerations.

34 SECTION 2. Said section 16T is hereby further amended in subsection (b), by inserting.
35 after the words "primary care resources", in lines 54-55, the following words:- "; community-
36 based healthcare resources".

37 SECTION 3. Said section 16T is hereby further amended in subsection (b), by striking
38 the first sentence of the third paragraph, in lines 63 through 68, and inserting in place thereof the
39 following sentence:-

40 The plan shall also make recommendations for the appropriate supply and distribution of
41 resources, programs, capacities, technologies and services identified in the second paragraph of
42 this subsection on a statewide and regional basis, based on an assessment of regional needs and
43 resource capacity for the subsequent 5 years and options for implementing such
44 recommendations, to include the identification of shortages and excesses in each region and
45 recommended statutory or regulatory mechanisms to incentivize a rebalancing of said shortage
46 and excess resources.

47 SECTION 4. Said section 16T is hereby further amended in subsection (c), by inserting,
48 after the word "need", in line 83, the following words:- "pursuant to section 25C of chapter 111,
49 and for making assessments and determinations on the impact of service discontinuations and
50 closures pursuant to section 51G of chapter 111".

51 SECTION 5. Said section 16T is hereby further amended by inserting at the end thereof
52 the following new subsection:-

53 (g) The secretary of human services shall work in conjunction with the agencies and
54 organizations having membership on the council, as defined in the first paragraph of subsection
55 (a), to establish agreements and mechanisms for appropriate sharing of data between agencies as

56 required for the council to fulfill its responsibilities, provided that no such agreement or
57 mechanism shall conflict with state and federal laws and rules for medical privacy.

58 SECTION 6. Section 13 of chapter 6D of the General Laws is hereby amended by
59 inserting at the end thereof the following new subsection:-

60 (l) Notice from the department of public health of a proposed hospital closure or
61 discontinuation of an essential health service pursuant to section 51G of chapter 111 shall
62 constitute a material change notice by the relevant provider or provider organization, and the
63 commission shall conduct a review of the impact of the material change pursuant to this section;
64 provided, however, that no report shall be referred to the attorney general under subsection (f).
65 The commission shall report the findings of a review conducted pursuant to this subsection,
66 including any preliminary findings, to the commissioner of public health. The executive director
67 of the commission and the commissioner of public health shall enter into a mutual agreement to
68 share documentation provided by the hospital relative to the proposed closure or discontinuation
69 to reduce duplicative reporting requirements by the hospital.

70 SECTION 7. Section 8 of chapter 12C of the General Laws is hereby amended in
71 subsection (c) by striking the last sentence of the second paragraph, in lines 55 through 60, and
72 inserting in place thereof the following sentence:-

73 The center shall also identify hospitals that the center considers to be in financial distress,
74 including, but not limited to, any hospitals at risk of closing or discontinuing essential health
75 services, as defined by the department of public health under section 51G of chapter 111, and
76 shall report a list of such at-risk hospitals, which shall not be subject to disclosure under chapter

77 66, to the secretary of health and human services, the commissioner of public health and the
78 executive director of the health policy commission no less frequently than once every 120 days.

79 SECTION 8. Said section 8 of said chapter 12C, as so appearing, is hereby further
80 amended in subsection (c) by inserting after the word “subsection.”, in line 63, the following
81 words:- "Compliance with said reporting requirements shall also be considered a condition of
82 licensure pursuant to section 51 of chapter 111."

83 SECTION 9. Section 11 of said chapter 12C is hereby amended by striking the section in
84 its entirety and inserting in place thereof the following:-

85 Section 11. The center shall ensure the timely reporting of information required under
86 sections 8, 9 and 10. The center shall notify public and private healthcare payers, including third-
87 party administrators, providers and provider organizations of any applicable reporting deadlines
88 and shall promulgate regulations to establish administrative sanctions against private healthcare
89 payers, third-party administrators, providers and provider organizations, including, but not
90 limited to, administrative fines, for any violations of sections 8, 9 and 10. Amounts collected
91 under this section shall be deposited in the healthcare payment reform fund, established under
92 section 100 of chapter 194 of the acts of 2011.

93 The center or its designated representative may petition the superior court seeking
94 injunctive relief to enforce the provisions of sections 8, 9 and 10. If the superior court upon
95 summary hearing determines that an entity subject to the requirements of this chapter has,
96 without justifiable cause, refused to furnish information required by sections 8, 9 and 10 or any
97 regulation promulgated by the center thereunder, it shall issue an order directing the payer, third-
98 party administrator, provider or provider organization to furnish the information within 5

99 business days; provided, that any failure to obey any such order may be penalized by the court as
100 contempt thereof.

101 The center may refer delinquent entities to the executive office of health and human
102 services and the department of public health, with recommendations that the executive office of
103 health and human services or the department of public health impose any penalty authorized
104 under chapters 111 and 118E of the General Laws or other applicable regulations.

105 SECTION 10. Section 51 of chapter 111 is hereby amended by inserting after the second
106 paragraph the following new paragraph:-

107 Each hospital licensee shall comply with the uniform reporting requirements to the center
108 for health information and analysis as established pursuant to chapter 12C.

109 SECTION 11. Section 51G of said chapter 111 is hereby amended by inserting after the
110 word "laws" in line 9 the following words:- "and a demonstrated plan for financial
111 sustainability".

112 SECTION 12. Said section 51G of said chapter 111, as so appearing, is hereby further
113 amended by striking subsection (4) and inserting in place thereof the following subsection:-

114 (4) (a) Any hospital shall give notice to the department 180 days prior to the curtailment,
115 discontinuance or relocation of any essential health service provided therein. The department
116 shall by regulation define "essential health service" for the purposes of this section and may
117 establish distinct definitions for each health planning region as defined pursuant to section 16T
118 of chapter 6A. The hospital proposing the discontinuance shall provide, with initial notice to the
119 department, (i) evidence of having given notice to municipal officials from each municipality to

120 which it provides the service as a healthcare resource as determined pursuant to section 16T of
121 chapter 6A of the General Laws and of having allowed reasonable opportunity for comment by a
122 stated deadline; and (ii) evidence of a plan to give public notice, including a plan allowing for a
123 reasonable opportunity for public comment, within 10 days of submission of initial notice to the
124 department. Any information given without meeting the requirements of this paragraph shall not
125 constitute notice to the department for the purpose of establishing the earliest date on which the
126 hospital discontinued the essential health service. The department shall forward any notice
127 received under this section to the local health department, secretary of labor and workforce
128 development and health policy commission.

129 (b) Any hospital shall give notice to the department 180 days prior to the closure of the
130 hospital. The hospital undergoing the closure shall provide, with initial notice to the department:

131 (i) evidence of having given notice to municipal officials from each municipality to which it
132 provides the service as a health care resource, as determined pursuant to section 16T of chapter
133 6A of the General Laws, and of having allowed reasonable opportunity for comment; (ii) notice
134 to primary service area stakeholders including, but not limited to: (a) the hospital's patient and
135 family council; (b) all staff members of the hospital; (c) any labor organization that is currently
136 representing any members of the hospital's workforce; and (d) any members of the General
137 Court who represent the city or town in the hospital's primary service area; and (iii) evidence of
138 a plan to give public notice, including a plan allowing for a reasonable opportunity for comment
139 from the public and primary service area stakeholders pursuant to (ii) within 10 days of
140 submission of their initial notice to the department. Any information given without meeting the
141 requirements of this paragraph shall not constitute notice to the department for the purpose of
142 establishing the earliest date on which the hospital may close. The department shall forward any

143 notice received under this section to the secretary of labor and workforce development and to the
144 health policy commission.

145 (c) The department shall, in the event that a hospital intends to close or proposes to
146 discontinue an essential health service or services, determine whether any closed or discontinued
147 services are necessary for preserving access and health status in the hospital's service area,
148 require hospitals to submit a plan for ensuring access to such necessary services following the
149 hospital's closure or discontinuation of the service and ensure continuing access to such services
150 in the event that the department determines that closure will significantly reduce access to
151 necessary services. If the hospital's plan for ensuring continued access to a necessary service
152 relies upon the availability of similar services at another hospital or health facility with which it
153 does not share common ownership, the department shall require the hospital to submit with said
154 plan a statement from each other hospital or health facility listed in the plan affirming capacity to
155 provide continued access as described in the plan. The department shall conduct a public hearing
156 prior to a determination on the closure of said essential services or of the hospital. The public
157 hearing shall include, but not be limited to: (i) an explanation by the controlling persons of the
158 hospital of the reasons for ceasing or curtailing operations, relocating health services or ceasing
159 to offer any of the listed health services; (ii) a description of the actions that the controlling
160 persons of the hospital will take to ensure that residents in the hospital or campus service area
161 have continued access to the health services being eliminated or curtailed and have continued
162 access to the health services being eliminated, curtailed or relocated; (iii) an opportunity for
163 public testimony on the scheduled cessation or curtailment of operations, relocation of health
164 services or cessation in offering any of the listed health services, and on the hospital's or
165 campus's plan to ensure continued access to those health services being eliminated, curtailed or

166 relocated; and (iv) an opportunity for the controlling persons of the hospital to respond to
167 questions from interested parties.

168 (d) The department, in conducting any assessment and prior to making any determination
169 pursuant to paragraph (c), shall refer to the state health plan and regional considerations
170 established pursuant to section 16T of chapter 6A, and shall also request and consider
171 information presented by the health policy commission pursuant to section 13 of chapter 6D.

172 (e) If a hospital closes or discontinues an essential health service without a plan approved
173 by the department pursuant to paragraphs (a) and (b) of this section, that hospital shall not be
174 eligible to have an application approved pursuant to section 25C of chapter 111 for a period of
175 two years from the date the service is discontinued, until the essential health service is restored
176 or until such time as the department is satisfied that a plan is in place that, at the time of the
177 discontinuance, would have met the requirements of paragraph (b). If the closed hospital or the
178 hospital discontinuing the essential health service is part of a network of hospitals under common
179 ownership, the same restrictions shall apply against each hospital owned, managed or controlled
180 by the hospital network. The commissioner may waive a restriction established pursuant to this
181 subsection if the application of such restriction causes an imminent hazard to the public health.

182 (f) If a hospital executes a plan to close or to discontinue an essential health service, said
183 plan not having been approved by the department pursuant to paragraphs (a) and (b) of this
184 section, that hospital shall not be eligible to receive funding under sections 2PPP or 2GGGG of
185 chapter 29, or under section 2G of Chapter 111, for a period of two years from the date the
186 service is discontinued, until the essential health service is restored or until such time as the
187 department is satisfied that a plan is in place that, at the time of the discontinuance, would have

188 met the requirements of paragraph (b). If the closed hospital or the hospital discontinuing the
189 essential health service is part of a network of hospitals under common ownership, the same
190 restrictions shall apply against each hospital owned, managed or controlled by the hospital
191 network. The commissioner may waive a restriction established pursuant to this subsection if the
192 application of such restriction causes an imminent hazard to the public health.

193 (g) No original license shall be granted to establish or maintain an acute-care hospital, as
194 defined by section 25B of chapter 111, unless the applicant submits a plan, to be approved by the
195 department, for the provision of community benefits, including the identification and provision
196 of essential health services. In approving the plan, the department may consider the applicant's
197 existing commitment to primary and preventive healthcare services and community contributions
198 as well as the primary and preventive healthcare services and community contributions of the
199 predecessor hospital. The department may waive this requirement, in whole or in part, at the
200 request of the applicant.

201 SECTION 13. Said section 51G of said chapter 111 is hereby amended by inserting after
202 subsection (6) the following subsection:-

203 (7) A demonstrated plan for financial sustainability shall include:

204 (a) a needs assessment that identifies the current state of contracting, current and
205 projected resources for coordination and delivery of care, areas for additional education and
206 assessments of technology and analytic resources;

207 (b) an implementation plan listing activities aimed at supporting and improving the
208 delivery of healthcare services delivered by the licensee, including any clinical affiliations as

209 defined in section 1 of chapter 12C of the General Laws, and how well those activities are
210 supported by their current resources;

211 (c) a financial plan that includes an evidence-based budget, contains proof of sources of
212 revenue to cover expenses and is based on a hospital's past financial performance, or in the case
213 of a new hospital, comparable to a hospital of similar size, providing same or similar services, in
214 a similar geographic area, and with a similar anticipated case mix based on epidemiological
215 surveillance data; and

216 (d) any other documentation that the department sees fit to evaluate the sustainability of
217 essential health services at said hospital.

218 SECTION 14. Section 56 of said chapter 111 is hereby amended by inserting after the
219 second sentence the following new sentences:-

220 Whoever, being licensed under section 51, discontinues an essential health service or
221 closes a hospital under said license and in violation of section 51G shall, for a first offense, be
222 punished by a fine of not more than \$150,000 and for a subsequent offense by a fine of not more
223 than \$300,000 or by imprisonment for not more than 2 years or both. Any licensee under section
224 51 that closes a hospital under said license and in violation of section 51G shall be punished by a
225 fine of not more than \$500,000, by imprisonment for not more than 2 years or both; provided,
226 that if a closed hospital is part of a network of hospitals under common ownership the penalties
227 herein described shall be levied against the authority, entity or corporation having control of the
228 hospital network.