



# Department of Health

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Revised Facility Closure Plan Guidelines

Dear Chief Executive Officer and Administrators:

This letter is to provide you with updated guidance regarding the submission of closure plans for hospitals, diagnostic and treatment centers, end-stage renal disease facilities, midwifery birthing centers and ambulatory surgery centers (each referred to herein as a “facility”). This guidance supersedes [DAL 23-06.pdf](#).

State regulations at 10 NYCRR § 401.3(a) requires that “Proposed changes in physical plant, bed capacity and the extent and kind of services provided shall be submitted to the Department in writing...” 10 NYCRR § 401.3(e) also requires that “To reduce the operation from a certified bed capacity to a specified lesser bed capacity, the operator shall obtain prior written approval from the department, show satisfactory cause for the requested reduction...” In addition, under 10 NYCRR § 401.3(g), “No medical facility shall discontinue operation or surrender its operating certificate unless 90 days’ notice of its intention to do so is given to the commissioner and his written approval obtained.”

No related actions, such as discontinuing a service or reducing the number of beds, may be taken prior to receiving approval of the closure plan; provided, however, that the Department of Health (“Department”) may take into consideration the impacts on quality of care and patient safety during the closure plan process and at its discretion, provide prior written approval to complete discrete actions prior to receiving approval of the closure plan. Even temporary closures require a closure plan, and the closure is not permitted unless it is approved by the Department in writing. Neither acknowledgment of the closure plan submission nor verbal comment from a Department representative can be considered approval of the closure plan. The Department reserves the right to utilize any available sanctions in a case where this guidance is not followed.

## **Facility Closure Plan Guidelines**

### **I. Temporary Closures (Up to 60 Days Duration):**

#### **Step One: Verbal Notification by Facility**

Verbal notification of a proposed closure must be provided to the Department’s Hospital Program Director in the applicable Regional Office as soon as any facility contemplates temporary cessation, pause, or limitation of a service or reduction in the number of beds. A verbal statement from the Regional Program Director does not constitute the Department’s approval of a closure plan.

### **Step Two: Written notification by Facility**

Within 48 hours of the verbal notice, a written notice must also be provided via email to the Department's Hospital Program Director in the Regional Office.

### **Step Three: Approval of Temporary Closure**

To obtain approval for temporary closures, the Department requires proof of a surety bond for which proceeds are forfeitable to the lowest-level local government where the facility is located. The proceeds will be so forfeited if the service is not resumed within 60 days. It is the responsibility of the facility to ensure that communities and community members continue to have access to needed health care services and that this information is posted on its main website.

## **II. Non-Temporary Closures (Greater than 60 Days Duration or Permanent):**

### **Step One: Verbal Notification by Facility**

Verbal notification of a proposed closure must be provided to the Department's Hospital Program Director in the applicable Regional Office as soon as any facility contemplates non-temporary cessation, pause, or limitation of a service or reduction in the number of beds. A verbal statement from the Regional Program Director does not constitute the Department's approval of a closure plan.

### **Step Two: Written notification by Facility**

Within 48 hours of the verbal notice and no less than 90 days in advance of the proposed closure, a written notice must also be provided via email to the Department's Hospital Program Director in the Regional Office.

### **Step Three: Public Meeting**

The facility must alert the public, physicians, and staff of the intent to submit a closure plan and must hold a public meeting, with invitations to all affected local, state and federal elected officials and notice to the community, which shall at a minimum include affected health care providers, labor unions, and if applicable, the borough president and community board for the district in which the hospital is located.

There must be 10 days' advance notice of the public meeting, including to the Department of Health, so that Department staff may attend if desired. The public meeting must be held at a site that is within reasonable proximity to the facility or unit seeking to close and is accessible to individuals with disabilities. Both in-person and virtual attendance shall be offered. The facility's Chief Executive Officer and/or Chief Operating Officer must attend and answer questions. Public participants must be afforded a reasonable opportunity to speak about relevant matters at the public meeting.

The facility and the Department will accept comments submitted in writing at the public meeting, and by mail or electronic mail within one week following the public meeting.

#### **Step Four: Submission of Closure Plan by Facility**

All the information below must be included (in sequential order) in the facility closure plan submitted to the Department's Hospital Program Director in the Regional Office via email for the Department's approval. Please include the date, name, address, telephone number, and email address of the facility and operator on all pages of the closure plan.

1. Target closure date, whether the entire facility is closing or, if the entire facility is not closing, what service(s) or beds will be closing and what service(s) will be remaining at the facility.
2. Reason(s) for closure. Please provide detailed information, data, financials, and all relevant documentation to support the reason(s) for closure
3. Name, title, telephone number, and email address of the individual designated as the operator's contact person throughout the closure process.
4. Name, title, telephone number, and email address of the individual responsible for coordinating closure, if different from the individual identified in number 3 above. If more than one individual has been assigned to separate closure duties (e.g., discharge coordination, directing care, media contacts, equipment disposal, record disposition), all names and contact information must be included.
5. How the facility will establish and maintain ongoing communication with the Department throughout each milestone of the closure process.
6. Number of patient visits to the facility for the previous three years (or for the timeframe that the facility operated if open less than three years).
7. Number of staff affected by the closure.
8. Evidence of verbal and written notification to the Department's Hospital Program Director in the Regional Office at the time closure was contemplated.
9. Evidence of written notification to patients, staff, physicians, applicable unions, elected officials, and the community of the intent to submit a closure plan. This must include dates and times of meetings inclusive of public meetings and a roster of attendees at those meetings.
10. Evidence that all required reports e.g., Financial Reports and Census Reports, have been submitted to the Department.
11. Evidence that all required Health Commerce System information is up to date.
12. A plan to manage media contacts initially and throughout the process. Media releases must be coordinated with the Department **prior to** release.
13. A plan regarding discontinuation of admissions, including the date **new** admissions will stop, and the plan to notify all referring institutions/facilities.
14. A summary of the facility's current financial condition and description of the assets available to the operator to maintain appropriate services during the closure period.
15. A description of the population served by the facility and how current patients will continue to obtain access to care including the number of patients affected by the closure. Identify the zip codes where at least 80% of patients originate. The process must include assessing the needs of the patients.

16. Evidence identifying and confirming availability of services at other area facilities including obtaining information to ensure that the facility can accept new patients, identifying where Medicaid patients can obtain care if the closing facility provides services to Medicaid patients; providing information about other facilities to patients and families, ensuring language access (i.e., that information about the closure and continuing care with another facility is communicated in the patient's preferred language) and that the wishes of current patients/families are respected; and ensuring that concerns such as geographic location, public transportation, type of facility, medical care, etc., are addressed in identifying future placement options and ensuring continuity of care for patients. Please note, as always, it is the responsibility of facilities to ensure that individual patients are offered choices, and that the patient accepts the transfer prior to any movement taking place.
17. A plan to ensure that patients' belongings will be secured if a facility is closing, and the plan if a patient is being transferred to another hospital.
18. A plan to determine the appropriate method of transport to be utilized for patients if they are being transferred to another facility to obtain inpatient care.
19. A plan to dispose of any drugs and biologicals, chemicals, and radioactive materials.
20. A plan for proper maintenance, storage, and retrieval of medical records, including:
  - a. plan for completion of medical records,
  - b. plan for maintenance of records in accordance with federal, state, and local regulations,
  - c. identification of a medical record custodian acceptable to the Department of Health, and
  - d. a process for handling medical information that may come post-closure.
21. Provisions for the storage and safekeeping of stained slides and paraffin blocks.
22. The plan to ensure adequate staffing throughout the closure process, and to ensure that staff have information regarding other employment opportunities.
23. A description of what the building will be used for once the facility is closed, if known, and the disposition of the building's contents.
24. If the proposal is to close psychiatric or substance use disorder beds or services, the proposed closure must also be discussed with the New York State Office of Mental Health (OMH) and the New York State Office of Addiction Services and Supports (OASAS). Evidence and summary of this discussion must be included in the closure plan.

#### **Step 5: Closure Plan Decision by the Department**

The closure plan is not approved until you receive written notification of the closure plan's approval from the Department. Neither acknowledgment of the closure plan submission nor a verbal comment from an individual who works for the Department can be considered an approval.

**Step 6: Contacting Stakeholders after the Closure Plan is Approved**

The facility shall notify patients, contracted services, staff, other agencies, and managed care programs immediately upon receipt of the Department's approval of the closure plan.

**Step 7: Facility Surrender of the Operating Certificate**

If the facility is permanently closing, the facility's operating certificate must be surrendered on the last day of operations to the Department's Hospital Program Director in the Regional Office.

**Note: Beds and/or Services that have not been operational for seven or more years**

For closures of beds or services that have **not** been operational for seven or more years, please notify the Department's Hospital Program Regional Office in writing and provide the following information:

- Service or bed/bed type(s) that are no longer operational.
- Date the beds, services, or dialysis stations stopped operating.
- Description of why the beds and services are not operating.

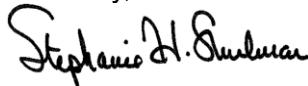
In these cases, the facility will also post a notice for no less than 90 days on its main website that provides the information listed above.

**Facilities should note:** The closure plan will be returned without approval if the plan does not meet the requirements detailed above or if the process is not followed. Failure to meet these requirements may also result in penalties to the facility, including but not limited to, actions related to a license, certification, or designation, or administrative fines issued on a per-day-of-violation basis for each day that the facility fails to operate without approval from the Department to close.

Effective June 22, 2023, a Health Equity Impact Assessment is required as part of Certificate of Need applications submitted to the Department. For additional information, please visit the Department's HEIA website at [https://www.health.ny.gov/community/health\\_equity/impact\\_assessment.htm](https://www.health.ny.gov/community/health_equity/impact_assessment.htm).

Questions regarding this correspondence may be referred to [hospinfo@health.ny.gov](mailto:hospinfo@health.ny.gov)

Sincerely,



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