



Department of Health

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August 29, 2023

DHDTC DAL#: 23-06
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. Please be reminded that 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...” 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.”

Any cessation, pause or limitation of a service is a closure that requires a closure plan and requires written approval from the New York State Department of Health (“Department”). Even if the closure is intended to be temporary, a closure plan is nevertheless required, and the closure is not permitted unless it is approved by the Department. The Department reserves the right to utilize all potential sanctions in a case where this guidance is not followed.

In order to obtain approval for temporary closures, the Department will require, as a condition of approval, proof of a surety bond whose proceeds are forfeitable to the lowest-level local government where the facility is located 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.

Verbal notification of a proposed closure must be provided to the Department’s Hospital Program Director in the Regional Office as soon as any provider contemplates service discontinuance. Written notification of the possibility of closure must be provided no later than 48 hours following the verbal notification. Prior to the submission of a closure plan to the Department for review, the provider must notify their Federal, State and local-level elected officials (county, city, town, and village, as applicable) and the community about the proposed closure. They must also hold a public meeting, where the Chief Executive Officer or the Chief Operating Officer attends and answers questions, that allows for advance notice to stakeholders and allows for public comments regarding the closure. They must also notify any organization that represents people who work at their facilities. 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). Questions about this procedure may be addressed to your Hospital Program Director in your Regional Office.

- The closure plan is not approved until you receive written notification of the closure plan's approval from the Department. Acknowledgment of the closure plan submission nor a verbal comment from an individual who works for the Department cannot be considered an approval.

Effective June 22, 2023, a Health Equity Impact Assessment (HEIA) is required as part of Certificate of Need (CON) 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.

- Pursuant to Department regulations, the following requirements regarding closures must be met:
- 90 days prior notice of the intent to close must be provided to the Department.
- prior written approval of the closure plan must be obtained from the Department before the facility is approved to close.
- no actions related to the proposed closure, such as discontinuing a service, may be taken prior to receiving approval of the closure plan.
- notification must be provided to patients, contracted services, staff, other agencies, and managed care programs immediately upon receipt of the Department's approval of the closure plan.
- the operator's closure plan must include, among other things, provisions for the maintenance, storage, and safekeeping of patient records and stained slides and paraffin blocks.
- the provider's operating certificate must be promptly surrendered to the Regional Office upon discontinuance of operation.

The information below must be included (in sequential order) in the facility closure plan submitted for the Department's approval. Please include the date, name, address, telephone number and email address of the facility/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) will be closing and what service(s) will be remaining at the facility.
2. Reason(s) for closure. Please provide detailed information, data, financials, etc. relevant to 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, etc.), all names and contact information must be included.

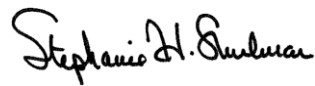
5. The closure plan must include very specific reference as to how the facility will establish and maintain ongoing communication with the Department throughout each milestone of the closure process.
6. The number of patient visits to the facility for the previous three years (or for the timeframe that 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. A narrative description of the proposed plan to notify patients, staff, physicians, and other staff of the closure plan. This must include written notification and meetings including those with elected officials and the community. Include dates and times of meetings, if available at the time of submission of the proposed plan, so that Department staff may attend if desired. A copy of the written communication must be provided with the closure plan. The letter must include a contact name and phone number in the event questions should arise. Please indicate who will be signing these letters.
10. All Required reports e.g., Financial Reports and Census Reports have been submitted to the Department. All required Health Commerce System (HCS) information must be up to date.
11. A description of the plan to manage media contacts initially and throughout the process. Media releases must be coordinated with the Department **prior to release**.
12. The plan to discontinue admissions, including the date new admissions will stop. Include a plan to notify all referring institutions/providers.
13. 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.
14. A description of the population served by the facility and how current patients will continue to obtain access to care. 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.
15. Identify and confirm availability of services at other area facilities including obtaining information to ensure that the provider can accept new patients, identifying where Medicaid patients can obtain care if the closing provider 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 provider 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/provider, 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 hospitals to ensure that individual patients are offered choices and that the patients accept the transfer prior to any movement taking place.
16. The plan to ensure that patient belongings will be secured if a hospital is closing, and the patient is being transferred to another hospital.
17. The plan to determine the appropriate method of transport to be utilized for patients if they are being transferred to another hospital to obtain inpatient care.
18. A plan to dispose of drugs and biologicals, chemicals, and radioactive materials.

19. The plan for proper maintenance, storage, and retrieval of medical records, including:
 - plan for completion of medical records
 - plan for maintenance of records in accordance with federal, state, and local regulations.
 - identification of medical record custodian acceptable to the Department of Health
 - process for handling medical information that may come post closure.
20. The plan to ensure adequate staffing throughout the closure process, and to ensure that staff have information regarding other employment opportunities.
21. The operator of the facility closing shall indicate what the building will be used for once the facility is closed and the disposition of the building's contents.
22. On the last day of operations (if the facility is closing, the facility must surrender its site-specific operating certificate by mailing it to the Department's Hospital Program Director in the Regional Office.
23. In the case of temporary closure, evidence of a surety bond.

Failure to follow the above process may 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.

Questions regarding this correspondence may be referred to hospinfo@health.ny.gov

Sincerely,



Stephanie Shulman, DrPH, MS
Director
Division of Hospitals and
Diagnostic & Treatment Centers