



STATE OF NEW YORK DEPARTMENT OF HEALTH

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Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner of Health

Dennis P. Whalen
Executive Deputy Commissioner

August 7, 2006

DQS/DAL: #06-13
Nursing Home Closure Guidelines

Dear Administrator:

In December 2003, the Department issued guidance to assist providers that may consider cessation of operations. Based on its experience in working with nursing home providers that chose closure over the past three years, the Department has revised its General Information Guidelines and more specific Nursing Facility/Operator Closure Plan Guidelines. This letter and the enclosed guidelines are designed to ensure a smooth and safe transition of residents throughout this process.

Specifically, the changes to the guidelines include:

- Revisions to the required information related to allocation and security of resident funds (#14);
- Revisions and clarification to the required plan for record retention (#19);
- Addition of a requirement for the submission of any signed agreements related to the transfer or sale of beds (#23); and
- Addition of a requirement that the plan include a description of how outstanding Medicaid liabilities will be satisfied (#24).

We expect that these revisions to the guidelines will improve your ability to address your highest priority -- the health and safety of your residents throughout the transition period. Please be reminded that you must have written approval from the Commissioner of Health prior to the implementation of a nursing home closure plan. Please contact your Regional Nursing Home Program Director if you have any questions about the information in this letter. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Keith W. Servis".

Keith W. Servis, Director
Division of Quality and Surveillance
for Nursing Homes and ICFs/MR

Enclosures

NEW YORK STATE DEPARTMENT OF HEALTH OFFICE OF HEALTH SYSTEMS MANAGEMENT FACILITY CLOSURE PLAN GUIDELINES

GENERAL INFORMATION:

This information has been prepared for all providers who are seeking approval to close a facility or discontinue services or programs that provide medical care and/or services to individuals in a community-based, residential, or acute care setting.

Verbal notification must be provided to the Department of Health's (DOH) Regional Program Director as soon as any provider contemplates closure/service discontinuance (closure). Written notification of the possibility of closure must be provided to the regional office no later than 48 hours following the verbal notification. Information on a potential closure may not be disclosed to the public, patients/residents or staff prior to notifying the DOH, submission of a closure plan to the DOH, and approval of such plan by the DOH.

The New York State Commissioner of Health must approve all closure plans in writing prior to issuing any public announcements related to a closure.

Pursuant to 10 NYCRR 401.3 (g) – (j), the following requirements regarding closures must be met:

- 90 days prior notice of the intent to close must be provided to the DOH;
- prior written approval of the closure and the operator's plan must be obtained from the Commissioner of Health;
- each patient, resident, next of kin, physician and sponsor must be notified immediately upon receipt of the Commissioner's approval;
- the operator's closure plan must include, among other things, provision for the maintenance, storage and safekeeping of patient/resident medical records;
- the provider's operating certificate must be promptly surrendered to DOH upon discontinuance of operation.

Providers may utilize their own format for the written closure plan, but the information submitted to the DOH must clearly and succinctly answer all the attached questions, in the order that they are listed. Please note that a full range of appropriate services for all patients/residents must be provided throughout the entire closure process.

YOU MUST HAVE WRITTEN APPROVAL FROM THE DEPARTMENT OF HEALTH PRIOR TO IMPLEMENTATION OF A CLOSURE PLAN.

Questions about this procedure may be addressed to your regional Program Director.

NEW YORK STATE DEPARTMENT OF HEALTH OFFICE OF HEALTH SYSTEMS MANAGEMENT

NURSING FACILITY/OPERATOR CLOSURE PLAN GUIDELINES

The following information must be included (in order) in the facility closure plan submitted to the NYS Department of Health (DOH) for approval:

*Please include the date, name, address and telephone number of the facility/operator on all pages of the closure plan.

1. Evidence of verbal and written notification to the Regional Program Director at the time closure was contemplated.
2. At the time the decision to close is made, the facility must contact its Fiscal Intermediary (FI) immediately to request a copy of the 855A form that must be completed following the last resident's discharge. The 855A will be used to notify the FI that the facility is voluntarily terminating its provider billing number.
3. Target closure date, facility capacity, current census
4. Name, title, telephone # and email address of the individual designated as the provider's contact person throughout the closure process.
5. Name, title, telephone # and email address of the individual responsible for coordinating closure, if different from the individual identified in #3. If more than one individual has been assigned to separate closure duties (e.g., discharge coordination, directing clinical care, media contacts, equipment disposal, medical record disposition etc.), all names and contact information must be included.
6. A narrative description of the proposed plan to notify residents, patients, next of kin, sponsors, staff and physicians of the closure plan. This should include written notification and meetings. Include dates and times of meetings, if available at the time of submission of the proposed plan, so that DOH staff may attend if desired.
7. If the facility provides services such as Adult Day Care Programs, clinics, Meals-on-Wheels etc. for individuals other than nursing home residents, a narrative description of the plan to discontinue those services. The plan should include referrals to alternate programs for registrants/customers.
8. A description of the plan to manage media contacts initially and throughout the process. Media releases should be coordinated with the DOH prior to release.
9. A description of a plan to involve the facility's Ombudsman, if applicable.
10. The plan to discontinue admissions, including the date new admissions will stop. Include the plan to notify all referring institutions.

11. The process to identify appropriate placement for current patients/residents. The process should include making determinations regarding bed availability at other area facilities, providing information about other facilities to patients/residents/families, insuring that the wishes of current patients/residents/families are respected when placement decisions are made, and insuring that concerns such as geographic location, public transportation, type of facility/provider, medical care etc. are addressed in identifying future placement options for residents/patients.
12. The plan to insure that records including current assessments, care plans, medication and treatment records, histories, discharge summaries, identifying information etc. are transferred in a secure manner with residents/patients who are being relocated.
13. The plan to ensure that resident/patient belongings will be secured and transferred.
14. The plan for allocation and security of resident and resident council funds. The facility must complete a full accounting of resident funds, on a resident-specific basis, prior to closure. The plan must include a signed attestation by the operator that the accounting is accurate. The plan should describe how resident funds are being protected. The plan must also include a signed attestation that all resident funds are secure. The accounting should be sent to the DOH regional office upon request. Resident funds should be sent to the receiving facilities when residents are transferred.
15. The plan to determine the appropriate method of transport to be utilized for patients/residents.
16. The plan for follow-up after patients/residents are relocated. Follow-up should occur for a minimum of thirty (30) days after discharge.
17. The plan for disposition of the building and its contents following the discharge of all patients/residents.
18. The plan to dispose of drugs and biologicals, chemicals, radioactive materials.
19. The plan for appropriate record retention. 10 NYCRR 401.3(i) requires Department approval of the plan for the maintenance, storage, and safekeeping of resident records. The plan should provide adequate safeguards for such records and provide ready access to residents and their physicians. 10 NYCRR 415.22 mandates that clinical records shall be retained for six years from the date of discharge or death or for residents who are minors, three years after the resident reaches the age of 18.

10 NYCRR 86-2.7 requires that all fiscal and statistical reports filed by the facility with the Department, including underlying books, records and documentation, be kept and maintained for at least six years from the date of filing, or the date upon which they were to be filed, whichever is later. The plan should identify the location of record storage, the individual responsible for ensuring compliance with contact information, and a description of how former residents, designated representatives or other appropriate parties may request copies of records.

20. The plan to insure that appropriate documentation is available to staff related to payroll information, health insurance, recertification of CNAs etc. See the guidance provided under 10NYCRR 86-2.7 in item 19.
21. The plan should include very specific reference to how the facility will establish and maintain ongoing communication with DOH throughout each milestone of the closure process.
22. The plan to ensure adequate staffing throughout the closure process, and to ensure that staff have information regarding other employment opportunities.
23. Any signed agreements related to the transfer or sale of beds to another operator must be submitted to the DOH regional office before the last resident is discharged from the facility.
24. The plan to satisfy outstanding liabilities to the Medicaid program. These include, but are not limited to, Patient Review Instrument (PRI) audits, unpaid cash receipts assessments, Medicaid audits, and reimbursement rate adjustments.
25. When the last resident has been discharged from the facility, the individual(s) responsible for carrying out the closure plan should meet with the appropriate DOH regional office to demonstrate that all aspects of the closure plan have been successfully completed.

NOTE: THE CLOSURE PLAN SUBMITTED TO THE DOH REGIONAL OFFICE SHOULD INCLUDE SUFFICIENT DETAIL TO CLEARLY IDENTIFY THE STEPS THE FACILITY WILL TAKE, AND THE INDIVIDUAL RESPONSIBLE FOR ENSURING THE STEPS ARE SUCCESSFULLY CARRIED OUT. SIMPLY STATING THAT THE ACTIVITY WILL BE CARRIED OUT CONSISTENT WITH STATUTE AND REGULATION WILL NOT BE SUFFICIENT. PLEASE CLEARLY EXPLAIN THE DETAILS OF THE ACTIVITY.

ON THE DAY AFTER THE LAST RESIDENT IS DISCHARGED:

1. The facility must complete the CMS 855A and forward it to the FI with a copy to the DOH regional office.
2. The original copy of the facility's Operating Certificate must be returned to the DOH regional office within 48 hours following the last resident's discharge. This can be accomplished by registered mail or hand delivery.