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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3288

03/05/2018 Authored by Bennett; Gunther; Anderson, P.; Backer; Hamilton and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; establishing requirements for public interest review of a hospital's
1.3 discontinuance or transfer of an essential health service; proposing coding for new
1.4 law in Minnesota Statutes, chapter 144.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [144.556] HOSPITAL DISCONTINUANCE OR TRANSFER OF
1.7 ESSENTIAL HEALTH SERVICE; PUBLIC INTEREST REVIEW.

1.8 Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

1.9 (b) "Essential health service" means emergency services, maternity and newborn services,
1.10 and intensive care unit services.

1.11 (c) "Requesting entity" means a statutory or home rule charter city, county, town, or
1.12 hospital district that requests a public interest review by the commissioner under subdivision
1.13 3.

1.14 Subd. 2. Notice. The controlling persons of a hospital licensed under sections 144.50 to
1.15 144.56 or a hospital campus must notify the commissioner of health and the public at least
1.16 90 days before the hospital or campus discontinues the provision of an essential health
1.17 service or transfers the provision of an essential health service to another hospital or to
1.18 another campus of the transferring hospital. The commissioner must be notified by
1.19 submission of a letter to the commissioner. Public notice must be provided in a manner
1.20 specified by the commissioner. The public notice and notice to the commissioner must
1.21 specify: (1) the essential health service scheduled to be discontinued or transferred; (2) the
1.22 reasons for discontinuing or transferring provision of the essential health service; (3) the
1.23 date by which the essential health service is scheduled to be discontinued or transferred;

2.1 (4) transition plans regarding transfers; (5) the hospital or campus to which the essential
2.2 health service is scheduled to be transferred, if applicable; (6) an estimate of the number of
2.3 patients who will be impacted by the discontinuance or transfer; and (7) any plans to facilitate
2.4 continued access by residents in the hospital's service area to the discontinued or transferred
2.5 service.

2.6 Subd. 3. **Public interest review.** (a) A requesting entity may, by resolution of its
2.7 governing body, ask the commissioner for a public interest review of a hospital's or campus'
2.8 scheduled discontinuance or transfer of an essential health service for which notice has been
2.9 provided under subdivision 2 if the hospital or hospital campus is located in the requesting
2.10 entity's jurisdiction. For purposes of this section, the governing body of a town is the town
2.11 board. The resolution must specify the level of review conducted by the commissioner from
2.12 among the following levels of analysis:

2.13 (1) an economic impact analysis, in which the commissioner shall assess the economic
2.14 impact to an area or region when discontinuing or transferring the essential health service.
2.15 An analysis under this clause must be completed within 60 days after the commissioner and
2.16 requesting entity have agreed on the scope of the analysis and the commissioner determines
2.17 the commissioner has the information needed to conduct the analysis;

2.18 (2) a health care market analysis, in which the commissioner shall assess the effect of
2.19 discontinuing or transferring the service on a hospital's utilization patterns, travel patterns
2.20 and travel times for patients to access the service, health care competition, and the workforce
2.21 in the impacted area. An analysis under this clause must be completed within 90 days after
2.22 the commissioner and requesting entity have agreed on the scope of the analysis and the
2.23 commissioner determines the commissioner has the information needed to conduct the
2.24 analysis; or

2.25 (3) a health impact assessment, in which the commissioner shall investigate the health
2.26 implications, including potential health risks, for residents in the hospital's service area
2.27 when discontinuing or transferring the essential health service, identify strategies to mitigate
2.28 any health risks, and identify and evaluate the impact of discontinuing or transferring the
2.29 service on health care costs. An assessment under this clause must be completed within 12
2.30 months after the commissioner and requesting entity have agreed on the scope of the
2.31 assessment and the commissioner determines the commissioner has the information needed
2.32 to conduct the analysis.

3.1 (b) An economic impact analysis shall be conducted using publicly available data and
3.2 any pertinent data voluntarily provided by a hospital that provided notice under subdivision
3.3 2.

3.4 (c) A health care market analysis or health impact assessment shall be conducted using
3.5 publicly available data and any pertinent data voluntarily provided by a hospital that provided
3.6 notice under subdivision 2. Based on the scope of the review, the commissioner may request
3.7 additional data from the hospital if necessary to conduct the review, and the hospital shall
3.8 comply with the request. The commissioner may administratively assess a monetary penalty
3.9 against a hospital that fails to comply with a request under this paragraph using the procedures
3.10 in sections 144.99, subdivision 4, and 144.991.

3.11 (d) For each discontinuance or transfer of one or more essential health services for which
3.12 notice is provided under subdivision 2, a requesting entity may request more than one level
3.13 of analysis under paragraph (a), provided the requesting entity submits the requests to the
3.14 commissioner all at one time and the analyses are conducted concurrently. A requesting
3.15 entity is not authorized to request additional levels of analysis following the initial request.

3.16 (e) The commissioner shall consult with the requesting entity to determine the scope
3.17 and cost of the public interest review. In determining the scope of the review, the
3.18 commissioner and requesting entity must consider the geographic boundaries of the area to
3.19 be studied; prevailing health challenges, disparities, and needs in the affected area or
3.20 population; and prevailing economic, business, and workforce factors. The cost of conducting
3.21 a public interest review must be paid by the requesting entity. Any money received under
3.22 this section shall be deposited in the state treasury, and is appropriated to the commissioner
3.23 for the purpose of administering this section.

3.24 (f) Following completion of a public interest review, the commissioner shall provide
3.25 the requesting entity with a written report of the review and shall publish a copy of the
3.26 review on the Department of Health Web site.

3.27 (g) If a public interest review is requested, the hospital or hospital campus shall not
3.28 discontinue or transfer the essential health service being reviewed until at least 30 days after
3.29 the commissioner provides the requesting entity with a written report of the review and
3.30 posts the report on the department's Web site.

3.31 Subd. 4. **Assistance with continued access to discontinued or transferred essential**
3.32 **health service.** A hospital or hospital campus that provides notice under subdivision 2 may
3.33 implement procedures or initiatives to facilitate continued access for residents in the hospital's
3.34 or campus' service area to the essential health service being discontinued or transferred.

- 4.1 The commissioner may assist a hospital or campus in devising and implementing these
- 4.2 procedures or initiatives.