

Nursing Home 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. These guidelines are intended to inform providers of required tasks related to the closure process, and to assist providers in developing and executing a plan that supports patient/resident choice and ensures minimal disruption to patients, residents, families, and representatives throughout the process.

No public announcements or potential closure information may be disclosed to the public, patients/residents or staff until receipt of the Department's written approval of an orderly closure plan.

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 Department;
- prior written approval of the closure and the operator's plan must be obtained from the Commissioner of Health;
- each patient, resident, designated family member, 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 operating certificate must be promptly surrendered to the Department upon discontinuance of operation.

Step One: Verbal notification. Verbal notification must be provided to the Department of Health's ("Department") Regional Program Director as soon as any provider contemplates closure and/or service discontinuance (closure). A verbal statement from the Regional Program Director or Regional Office does **not** constitute the Department's approval of a closure.

Step Two: Submission of Closure Plan. Providers are required to submit their proposed closure plan via the Drupal survey at <https://apps.health.ny.gov/pubpal/builder/survey/nys-oaltc-closure-plan>.

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

At the time the decision to close is made, the facility must immediately contact its Fiscal Intermediary to request a copy of the CMS-855A form that must be promptly completed and submitted following the last resident's discharge. The CMS-855A will be used to notify the Fiscal Intermediary that the facility is voluntarily terminating its provider billing number.

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

The following information must be included (in order) in the facility closure plan submitted to the Department 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. Confirmation that the facility contacted its Fiscal Intermediary to request a copy of the CMS-855A form that must be completed following the last resident's discharge.
3. Target closure date, facility capacity, and current census. The target closure date is not necessarily the date that the facility will be deemed by the Department to be closed. A full range of appropriate services for all patients/residents must be provided throughout the entire closure process.
4. Name, title, telephone number, and email address of the individual designated as the provider's contact person throughout the closure process. The submitted closure plan must 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.
5. Name, title, telephone # and email address of the individual responsible for coordinating closure, if different from the individual identified in #4. 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, designated family members, sponsors, staff, physicians and Medicaid Managed Long Term Care providers 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 Department staff may attend. A copy of the sample letter to the resident, resident's representative, family and staff should be provided with the closure plan. Letters should include a contact name and phone number in the event questions should arise. It should indicate who will be signing the letter. Include a draft written notification for each party in an appendix. Please note that the final letters or notices, issued upon closure plan approval, must be provided to the Department upon release.
7. If the facility provides services for individuals other than nursing home residents, such as an Adult Day Health Care Program, clinics, Meals-on-Wheels, etc., a narrative description of the plan to discontinue those services. The plan should include referrals to alternate programs for registrants/customers.

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8. A description of the plan to manage media contacts initially and throughout the process. Media releases should be coordinated with the Department prior to release. No public announcements or potential closure information may be disclosed to the media until the Department's written approval of an orderly closure plan has been received.
9. A description of the plan to involve the facility's Ombudsman. The plan shall include, at a minimum, ensuring the facility's Ombudsman is: aware of the closure; notified of and has the opportunity to attend the resident and family meetings; copied on all discharge notices; invited to participate, with authorization, in discharge planning conferences to advise and support the resident; able to advocate and consult on problems and suggest possible solutions; and invited to follow up with residents after having moved.
10. A plan to notify local elected officials of the approved closure plan. Such notification must include the name and any affected program type/s, i.e., nursing home, adult day health care program, transitional care unit, etc.; and the name, title, telephone # and email address of the individual designated as the provider liaison throughout the closure process and their targeted closure date.
11. The plan to discontinue admissions. Ensure that the facility does not admit any new residents on or after the date on which such written notification (i.e., the closure plan) is submitted, consistent with 42 CFR § 483.70(k)(2). Include the plan to notify all referring institutions.
12. The plan to identify appropriate placement for current patients/residents, including:
 - a. The process to identify all residents who are interested in community placement and make a referral for them to the current Money Follows the Person contractor, New York Association on Independent Living (<https://ilny.us/>).
 - b. The process to identify current patients/residents who are participants in Medicaid Managed Long Term Care (MLTC) and who their MLTC plans are. The MLTC plans must be included in identifying future placement options for residents/patients. The facility must develop a plan to involve the MLTC plan and to ensure patients/residents who participate in MLTC and their families are aware of all placement options and potential impact on relocation if, for example, the resident's MLTC plan does not have arrangements with a nursing home which the resident is considering.
 - c. The process for making determinations regarding bed availability at other area facilities, providing information about other facilities to patients/residents/families, ensuring that the wishes of current patients/residents/families are respected when placement decisions are made, and ensuring that concerns such as geographic location, availability of/access to public transportation, type of facility/provider, ability to meet the resident's medical and behavioral health needs, etc. are addressed in identifying future placement options for residents/patients.
13. The plan to ensure 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.
14. The plan to ensure that resident/patient belongings will be secured and transferred.

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15. 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.
16. The plan must also include a signed attestation that all resident funds are secure. The accounting should be sent to the Department Regional Office upon request. The attestations must be included in the closure plan submitted to the Department for review. Resident funds should be sent to the receiving facilities when residents are transferred.
17. The plan to determine the appropriate method of transport to be utilized for patients/residents.
18. Completion of the current (at the time of closure plan submission) resident roster template with unique initials for each resident. This will be used throughout the closure process and should be updated and shared with the Regional Office and Ombudsman not less than weekly.
19. The plan for follow-up after patients/residents are relocated. Follow-up should occur for a minimum of thirty (30) days after discharge and include follow up for relocation stress syndrome/transfer trauma. The plan should include communication with receiving facilities throughout the follow-up process.
20. The plan for disposition of the building and its contents following the discharge of all patients/residents.
21. The plan to dispose of drugs and biologicals, chemicals, and radioactive materials.
22. 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 (6) 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.
23. The plan to ensure that appropriate documentation is available to staff related to payroll information, health insurance, recertification of Certified Nurse Aides, etc.
 - See the guidance provided under 10 NYCRR § 86-2.7. This documentation must be kept and maintained for at least six (6) years from the date of filing, or the date upon

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which they were to be filed, whichever is later.

24. The plan should include very specific reference as to how the facility will establish and maintain ongoing communication with the Department, weekly at a minimum, throughout each step and milestone of the closure process.
25. The plan to ensure adequate staffing throughout the closure process, and to ensure that staff have information regarding other employment opportunities.
26. 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.

Step Three: Department's Written Approval of Closure Plan. Your closure plan is not approved until you receive a written notification of approval from the Department. No public announcements or potential closure information may be disclosed to the public, patients/residents or staff until the Department's written approval of an orderly closure plan has been received.

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

Additional Requirements:

ON THE DAY AFTER THE LAST RESIDENT IS DISCHARGED:

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

ADULT DAY HEALTH CARE PROGRAMS

If the closing facility sponsors an Adult Day Health Care, or a decision was made by the facility to remain open but close its Adult Day Health Care Program, the following requirements also apply:

1. Submission of a completed roster with initials.
2. Confirmation that a Limited Review Application will be submitted via NYSE-CON pursuant to 10 NYCRR § 710.1(c)(5)-(7).

Process or submission questions may be referred to cons@health.ny.gov.

TRANSITIONAL CARE UNITS

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If the closing facility sponsors a Transitional Care Unit, or a decision was made by the facility to remain open but close its Transitional Care Unit, the following requirements also apply:

1. Submission of a completed roster with initials.
2. Confirmation that a Limited Review Application will be submitted via NYSE-CON pursuant to 10 NYCRR § 710.1(c)(5)-(7).

Process or submission questions may be referred to cons@health.ny.gov.