



Secretary Marylou Sudders, MSW, ACSW
Executive Office of Health and Human Services
1 Ashburton Place
Boston, MA 02108

Dear Secretary Sudders:

We write to express concern over the decision by Steward Health Care to close two intensive care units (ICUs) in two hospitals this past week without notice to the community or the Department of Public Health (DPH) as would be required by law.

- On or about Thursday, April 2 Steward-owned Nashoba Valley Medical Center closed its ICU indefinitely and sent ICU staff home;
- On or about Friday, April 3 Steward-owned Holy Family Hospital management told staff that the ICU would be closed indefinitely at its Haverhill campus. The ICU was closed by the morning of April 5.

Both actions are alarming amid the COVID-19 crisis. While reallocating resources in the crisis is a reality everywhere, closing two ICUs in hospitals that are both currently treating COVID-19 patients and can be expected to see a great many more in the coming days and weeks appears antithetical to public health imperatives. The Haverhill region with its working class and immigrant communities has been hit hard by the virus. The towns surrounding Nashoba Valley Medical Center in Ayer have also been hit hard as the hospital is just down the road from the nursing home in Littleton that has been taken over by the National Guard due to the rapid spread of the virus.

None of the notice requirements under 105 CMR 130.122 (attached) appear to have been followed. The 30 day notice to “the Department and the following parties of its intent to submit notice to close a service” appears not to have been given. Nor have the two hospitals followed the requirements that, following that 30 day notice period, “Notice to the Department shall be given at least 90 calendar days in advance of the planned closure of the service”. While 130.122 (A) does state “A hospital may remove *beds* from service temporarily,” section (B) immediately makes clear the distinction between temporarily removing “beds” and removing a “service”:

“Nothing in 105 CMR 130.122 shall be construed to authorize a licensee to discontinue any service, as defined in 105 CMR 130.020 to the public entirely or in substantial part except upon notice to the Department as described in 105 CMR 130.122.”

We therefore ask the DPH and other appropriate state agencies to take all necessary actions to order Nashoba Valley Medical Center and Holy Family Hospital in Haverhill to immediately re-open their two shuttered ICUs both in compliance with regulations and also consistent with the necessities of the emergency response to the COVID-19 pandemic.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Donna Kelley-Williams, RN". The signature is written in black ink and is positioned centrally below the word "Sincerely,".

Donna Kelley-Williams
President, Massachusetts Nurses Association

Enclosure:

Text of 105 CMR 130.122 section (A) and (B)

130.121 : Beds Out of Service and Discontinuation of Service

(A) A hospital may remove beds from service temporarily, within the discretion of the licensee, except that any hospital that intends to remove beds from service for more than six months shall notify the Department in writing at least 30 days prior to such removal.

(B) Nothing in 105 CMR 130.122 shall be construed to authorize a licensee to discontinue any service, as defined in 105 CMR 130.020 to the public entirely or in substantial part except upon notice to the Department as described in 105 CMR 130.122. Notice to the Department shall be given at least 90 calendar days in advance of the planned closure of the service:

At least 30 days prior to notifying the Department of the proposed closure of an essential health service, the hospital shall inform either electronically or in writing the Department and the following parties of its intent to submit notice to close a service:

- (1) The hospital's patient and family council;
- (2) Each staff member of the hospital;
- (3) Every labor organization that represents the hospital's workforce during the period of the essential services closure;
- (4) The members of the General Court who represent the city or town in which the hospital is located; and

(5) A representative of the local officials of the city or town in which the hospital is located. With respect to the proposed closure of an essential health service, the 90 day notice to the Department shall at a minimum provide current utilization rates for service(s) being discontinued, describe the anticipated impact on individuals in the hospital's service area, provide the date set for discontinuation, include the names and addresses of any organized health care coalitions and community groups that are known to the hospital when the notice is issued to the Department, a detailed account of any community engagement and planning which has occurred prior to such filing, and such other information as the Commissioner may require. With respect to the proposed closure of an essential health service, the hospital shall also send a copy of the notice that it submits to the Department to the Health Policy Commission, Office of the Attorney General, Center for Health Information and Analysis, and Executive Office of Labor and Workforce Development as well as each of the health care coalitions and community groups identified by the hospital in its notice to the Department. The Commissioner or his or her designee may waive the 90-day time frame for notifying the Department of a planned discontinuation of a service only in extraordinary circumstances where the Commissioner has determined that such a waiver is necessary to protect the health and safety of patients served by the hospital.