

118TH CONGRESS
2D SESSION

S. _____

To amend title XVIII of the Social Security Act to require hospitals to fulfill certain obligations relating to discontinuation of services or closure.

IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN (for herself and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to require hospitals to fulfill certain obligations relating to discontinuation of services or closure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hospital Stability and
5 Health Services Act of 2024”.

1 **SEC. 2. MAINTENANCE OF HEALTH CARE ACCESS RELAT-**
2 **ING TO HOSPITAL DISCONTINUATION OF**
3 **SERVICES OR CLOSURE.**

4 Section 1866 of the Social Security Act (42 U.S.C.
5 1395cc) is amended—

6 (1) in subsection (a)(1)—

7 (A) in subparagraph (X), by striking
8 “and” at the end;

9 (B) in subparagraph (Y)(ii)(V), by striking
10 the period and inserting “, and”; and

11 (C) by inserting after subparagraph (Y)
12 the following new subparagraph:

13 “(Z) beginning 60 days after the date of the en-
14 actment of this subparagraph, in the case of a hos-
15 pital, to comply with the requirements of subsection
16 (l) (relating to discontinuation of services or clo-
17 sure).”; and

18 (2) by adding at the end the following new sub-
19 section:

20 “(l) REQUIREMENTS FOR HOSPITALS RELATING TO
21 DISCONTINUATION OF SERVICES OR CLOSURE.—

22 “(1) REQUIREMENTS.—

23 “(A) IN GENERAL.—For purposes of sub-
24 section (a)(1)(Z), except as provided in sub-
25 paragraph (B), the requirements described in
26 this subsection are that a hospital—

1 “(i) notify the Secretary, in accord-
2 ance with paragraph (2), not less than 90
3 days prior to the discontinuation of serv-
4 ices or full hospital closure;

5 “(ii) prohibit the discontinuation of
6 essential services (as defined in paragraph
7 (6)) during the notification period (as de-
8 fined in such paragraph) unless there is a
9 clear harm posed to patient or employee
10 health or safety in the hospital continuing
11 to furnish such services;

12 “(iii) respond to any inquiries by the
13 Secretary relating to the implementation of
14 this subsection, including the determina-
15 tion of essential services under paragraph
16 (6)(C); and

17 “(iv) if applicable—

18 “(I) submit a mitigation plan
19 and related information as described
20 in paragraph (3); and

21 “(II) participate in the public
22 comment and review process (includ-
23 ing, if applicable, the alternative miti-
24 gation plan) described in paragraph
25 (4).

1 “(B) APPLICATION IN CASE OF CATA-
2 STROPHIC EVENTS.—In the case where a dis-
3 continuation of services or closure of a hospital
4 is due to an unforeseen catastrophic event (as
5 defined by the Secretary), the requirements de-
6 scribed in subparagraph (A) shall apply, ex-
7 cept—

8 “(i) the hospital shall provide the no-
9 tification under clause (i) of such subpara-
10 graph not later than 30 days after the cat-
11 astrophic event or as soon as feasible as
12 determined by the Secretary; and

13 “(ii) clause (ii) of such subparagraph
14 (relating to prohibiting the discontinuation
15 of services) shall not apply.

16 “(2) NOTIFICATION INFORMATION.—For pur-
17 poses of paragraph (1)(A)(i), the notification under
18 such paragraph shall include the following informa-
19 tion with respect to a hospital:

20 “(A) DISCONTINUATION OF SERVICES.—In
21 the case where the hospital is discontinuing
22 services (without full hospital closure):

23 “(i) The services that will be discon-
24 tinued and number of hospital beds im-
25 pacted.

1 “(ii) The number of individuals fur-
2 nished such services annually and a break-
3 down of the type of insurance used by such
4 individuals for such services.

5 “(iii) The number of impacted em-
6 ployees and what labor organization rep-
7 resents them (and the contact information
8 for such organization).

9 “(iv) The names and addresses of any
10 organized health care coalitions and com-
11 munity groups that represent the commu-
12 nities impacted by the discontinuation of
13 such services.

14 “(v) Alternative providers of such
15 services, including provider type, contact
16 information, and distance and transpor-
17 tation time by car and public transit from
18 the hospital.

19 “(B) FULL HOSPITAL CLOSURE.—In the
20 case of full hospital closure:

21 “(i) Hospital ownership entities.

22 “(ii) The full extent of services that
23 will no longer be furnished by the hospital.

24 “(iii) The number of individuals fur-
25 nished services annually by the hospital, a

1 description of the services furnished, and a
2 breakdown of the type of insurance used
3 by such individuals for such services.

4 “(iv) The number of impacted employ-
5 ees and, if applicable, what labor organiza-
6 tions represent them (and the contact in-
7 formation for each such organization).

8 “(v) The names and addresses of any
9 organized health care coalitions and com-
10 munity groups that represent the commu-
11 nities impacted by the closure.

12 “(vi) Alternative providers, including
13 provider type, contact information, and
14 distance and transportation time by car
15 and public transit from the hospital.

16 “(vii) Steps taken prior to the deci-
17 sion to close in order to avoid closure.

18 “(viii) Distribution of liquidation pro-
19 ceeds (cash or assets) or any payments
20 (cash or assets) made to employees, own-
21 ers, or contractors related to the closure.

22 “(3) SUBMISSION OF MITIGATION PLAN AND
23 RELATED INFORMATION FOR ESSENTIAL SERV-
24 ICES.—

1 “(A) NOTIFICATION BY SECRETARY.—If
2 the Secretary determines that the discontinu-
3 ation of services or closure of an applicable hos-
4 pital would negatively impact access to essential
5 services, the Secretary shall notify the applica-
6 ble hospital of such determination.

7 “(B) SUBMISSION OF MITIGATION PLAN
8 AND RELATED INFORMATION.—If an applicable
9 hospital receives a notification under subpara-
10 graph (A), the applicable hospital shall, not
11 later than 15 days after receiving such notifica-
12 tion, submit to the Secretary, the State health
13 department, and the local department of public
14 health—

15 “(i) a plan to—

16 “(I) preserve access to essential
17 services for impacted communities
18 through partnerships, commitments
19 from surrounding facilities, transpor-
20 tation plan access, and preparation
21 for surge response; and

22 “(II) support employees in
23 transitioning to new positions within
24 health care;

1 impact of the potential discontinuation of
2 services or closure of an applicable hos-
3 pital.

4 “(ii) NOTICE.—Notice of the oppor-
5 tunity to submit comments shall be pub-
6 lished in the Federal Register and distrib-
7 uted to—

8 “(I) providers of services and
9 suppliers that may be impacted by the
10 discontinuation of services or closure
11 of the applicable hospital;

12 “(II) any labor organization that
13 represents any subdivision of employ-
14 ees of the applicable hospital;

15 “(III) organized health care coa-
16 litions and community groups that
17 represent the communities impacted
18 by the discontinuation of services or
19 closure;

20 “(IV) the State health agency;
21 and

22 “(V) the local department of pub-
23 lic health.

24 “(iii) RECOMMENDATIONS OF STATE
25 HEALTH AGENCY AND LOCAL DEPART-

1 MENTS OF PUBLIC HEALTH.—In reviewing
2 a mitigation plan submitted by an applica-
3 ble hospital under paragraph (3), the Sec-
4 retary shall take into consideration any
5 recommendations submitted by the State
6 health agency and local departments of
7 public health, as applicable, regarding
8 whether such plan should be approved.

9 “(B) ALTERNATIVE MITIGATION PLAN.—

10 “(i) IN GENERAL.—If, after reviewing
11 the mitigation plan submitted by an appli-
12 cable hospital under paragraph (3) and the
13 comments submitted during the public
14 comment period under subparagraph (A)
15 with respect to the discontinuation of serv-
16 ices or closure of the applicable hospital,
17 the Secretary finds that the discontinu-
18 ation of services or closure of the applica-
19 ble hospital would have a significant im-
20 pact on access to essential services, the
21 Secretary shall work with the applicable
22 hospital or other providers of services and
23 suppliers in the area, as appropriate, to de-
24 velop and implement an alternative plan to
25 the plan submitted by the applicable hos-

1 pital under paragraph (3) (referred to in
2 this subsection as the ‘alternative mitiga-
3 tion plan’) in order to ensure continued ac-
4 cess to essential services, which may in-
5 clude an agreement to delay the dis-
6 continuation of services or closure of the
7 applicable hospital until the alternative
8 mitigation plan is complete.

9 “(ii) TECHNICAL ASSISTANCE.—An
10 alternative mitigation plan under clause (i)
11 may include technical assistance or infor-
12 mation on available funding mechanisms to
13 support the furnishing of essential services.

14 “(iii) COLLABORATION.—The Sec-
15 retary should, to the extent practicable,
16 collaborate with State and municipal gov-
17 ernment officials in the development of an
18 alternative mitigation plan under clause
19 (i).

20 “(iv) PUBLIC AVAILABILITY.—The
21 Secretary shall make any information sub-
22 mitted and the alternative mitigation plan
23 developed under this paragraph available
24 to the public on the internet website of the
25 Centers for Medicare & Medicaid Services.

1 “(C) IMPLEMENTATION.—The Secretary
2 shall promulgate regulations to detail the re-
3 quired response time by an applicable hospital
4 and the speed of the review process under this
5 paragraph in order to ensure that such process
6 can be completed with respect to an applicable
7 hospital prior to the proposed service dis-
8 continuation date or closure date of the applica-
9 ble hospital.

10 “(D) PROHIBITION.—In the case where
11 the Secretary finds that a hospital has violated
12 the requirements of this subsection, the Sec-
13 retary may prohibit the hospital and any hos-
14 pital under the same hospital ownership entity
15 from being eligible to enroll or reenroll under
16 the program under this title under section
17 1866(j) until the earlier of—

18 “(i) the date that is 3 years after the
19 date on which the hospital discontinues
20 services or closes;

21 “(ii) the date on which the Secretary
22 determines essential health services that
23 were negatively impacted by the dis-
24 continuation or closure have been restored;
25 or

1 “(iii) such time as the Secretary is
2 satisfied with the mitigation plan sub-
3 mitted by the hospital under paragraph (3)
4 or the alternative mitigation plan under
5 paragraph (4).

6 “(5) ANNUAL REPORTS.—The Secretary shall
7 submit an annual report to Congress on the dis-
8 continuation of services and full closure of hospitals.
9 Each report submitted under the preceding sentence
10 shall include—

11 “(A) a description of trends in the dis-
12 continuation of services and closures of hos-
13 pitals, including hospital ownership type, geo-
14 graphic location, types of services furnished, de-
15 mographic served, and insurance type;

16 “(B) an analysis of the impact of the dis-
17 continuation of services and closures on health
18 care access and ability to meet surge demand
19 due to emergency (such as a pandemic or cli-
20 mate disaster);

21 “(C) recommendations for such adminis-
22 trative or legislative changes as the Secretary
23 determines appropriate to preserve access to es-
24 sential services nationwide.

25 “(6) DEFINITIONS.—In this subsection:

1 “(A) APPLICABLE HOSPITAL.—The term
2 ‘applicable hospital’ means a hospital that sub-
3 mits a notification under paragraph (1)(A)(i) of
4 a discontinuation of services or full hospital clo-
5 sure.

6 “(B) DISCONTINUATION.—The term ‘dis-
7 continuation’ may include any reduction or dis-
8 continuation of services furnished by an appli-
9 cable hospital, including those that occur as
10 part of a merger or acquisition agreement.

11 “(C) ESSENTIAL SERVICES.—The term ‘es-
12 sential services’ means, with respect to an ap-
13 plicable hospital, services that are necessary for
14 preserving health care access (as determined by
15 the Secretary), including services for which the
16 Secretary determines—

17 “(i) there are no equivalent services
18 available within the same travel time;

19 “(ii) that loss of the services would re-
20 sult in meaningful reductions in surge ca-
21 pacity that will negatively impact access to
22 services;

23 “(iii) that loss of the services would
24 limit health care access for specific demo-
25 graphics of individuals based on sex, sexu-

1 ality, race, nationality, age, or disability
2 status;

3 “(iv) that loss of the services would
4 have a meaningful impact on the ability of
5 health systems to respond to impacts of
6 climate change; or

7 “(v) there is a health or health care-
8 related emergency declaration status appli-
9 cable to the surrounding geographical area
10 of the hospital on the date on which the
11 hospital submits notification under para-
12 graph (1)(A)(i) of a discontinuation of
13 services or full hospital closure.

14 “(D) NOTIFICATION PERIOD.—The term
15 ‘notification period’ means, with respect to an
16 applicable hospital, the period beginning on the
17 date on which the hospital submits notification
18 under paragraph (1)(A)(i) of a discontinuation
19 of services or full hospital closure and ending
20 on the date of such discontinuation of services
21 or closure.

22 “(7) NO PREEMPTION OF STATE LAW.—Noth-
23 ing in subsection (a)(1)(Z) or this subsection shall
24 be construed to limit any rights or remedies under
25 State or local law relating to protecting access to es-

1 sential services or reviewing proposed hospital clo-
2 sures or reduction of services.”.