| Provision(s) Waived | Area of Regulation | Scope of Waiver |
| --- | --- | --- |
| EMERGENCY DECLARATION – EO 202  Declared State Disaster Emergency Effective March 7, 2020 through December 3, 2020[[1]](#footnote-1)  Specific Waivers/Modifications Effective March 7, 2020; Most recently extended through December 3, 2020[[2]](#footnote-2) | | |
| ~~PHL Section 2510 subdivision 6 and Section 2511~~  Superseded by EO 202.1 | ~~CHIP~~ | ~~To the extent necessary to waive or revise eligibility criteria, documentation requirements, or premium contributions; modify covered health care services or the scope and level of such services set forth in contracts; increase subsidy payments to approved organizations, including the maximum dollar amount set forth in contracts; or provide extensions for required reports due by approved organizations in accordance with contracts~~ |
| PHL Section 224-b and Section 225 subdivision 4 | Public health; Health Planning Council | To the extent necessary to permit the Commissioner of Health to promulgate emergency regulations and to amend the State Sanitary Code |
| PHL subdivision 3 of Section 273 | Prescription drugs in the Clinical Drug Review program; prior authorizations | To the extent necessary to allow patients to receive prescribed drugs, without delay |
| Social Services Law 364-j(25) and 364-j(25-a) | Managed care | To the extent necessary to allow patients to receive prescribed drugs, without delay |
| Education Law Sections 6521 and 6902 | Practice of medicine; Practice of nursing | To the extent necessary to permit unlicensed individuals, upon completion of training deemed adequate by the Commissioner of Health, to collect throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19, for purposes of testing; and to the extent necessary to permit non-nursing staff, upon completion of training deemed adequate by the Commissioner of Health, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse |
| ~~PHL Section 2803 subdivision 2~~  Superseded by EO 202.10 | ~~Miscellaneous hospital requirements regulated by the Commissioner of Health~~ | ~~To the extent necessary to permit the Commissioner of Health to promulgate emergency regulations concerning the facilities licensed pursuant to Article 28 of the Public Health Law, including but not limited to the operation of general hospitals~~ |
| ~~10 NYCRR Section 400.9 and Section 405.9 (f)[[3]](#footnote-3) (7)~~  Superseded by EO 202.28 | ~~Transfer/admission/discharge~~ | ~~To the extent necessary to permit general hospitals and nursing homes licensed pursuant to Article 28 of the Public Health Law ("Article 28 facilities") that are treating patients during the disaster emergency to rapidly discharge, transfer, or receive such patients, as authorized by the Commissioner of Health, provided such facilities take all reasonable measures to protect the health and safety of such patients and residents, including safe transfer and discharge practices, and to comply with the Emergency Medical Treatment and Active Labor Act (42 USC section 1395dd) and any associated regulations~~ |
| ~~10 NYCRR Section 400.11~~  Reinstated as of May 8, 2020 by EO 202.28 | ~~Assessment of long-term care patients~~ | ~~To the extent necessary to permit Article 28 facilities receiving patients as a result of the disaster emergency to complete patient review instruments as soon as possible~~ |
| ~~10 NYCRR Section 405~~  Reinstated as of May 8, 2020 by EO 202.28 | ~~Hospital minimum standards~~ | ~~To the extent necessary to maintain the public health with respect to treatment or containment of individuals with or suspected to have COVID-19~~ |
| Education Law Sections 8602 and 8603  10 NYCRR Section 58-1.5 | Clinical lab | To the extent necessary to permit individuals who meet the federal requirements for high complexity testing to perform testing for the detection of SARS-CoV-2 in specimens collected from individuals suspected of suffering from a COVID-19 infection |
| ~~Education Law Section 6909 subdivision 4 and Section 6527 subdivision 6~~  ~~8 NYCRR Section 64.7~~  Superseded by EO 202.1 | ~~Licensure; Miscellaneous provisions regulating physician practice~~ | ~~To the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by this Executive Order to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection~~ |
| 14 NYCRR Section 596 | Telemental Health Services | To the extent necessary to allow for rapid approval of the use of telemental health services, including the requirements for in-person initial assessment prior to the delivery of telemental health services, limitations on who can deliver telemental health services, requirements for who must be present while telemental health services are delivered, and a recipient's right to refuse telemental health services |
| EO 202.1 – Effective March 12, 2020; Most recently extended through December 3, 2020[[4]](#footnote-4) | | |
| 10 NYCRR Section 401.3 subdivisions (a) and (e) and Section 710.1 | Changes to existing medical facilities in physical plant and bed capacity; construction of new facilities | To the extent necessary to allow hospitals to make temporary changes to physical plant, bed capacities, and services provided, upon approval of the Commissioner of Health, in response to a surge in patient census |
| 10 NYCRR Parts 709 and 710 | Medical facility construction | To the extent necessary to allow construction applications for temporary hospital locations and extensions to be approved by the Commissioner of Health without considering the recommendation of the health systems agency or the Public Health and Health Planning Council, and to take such further measures as may be necessary to expedite departmental reviews for such approval |
| 10 NYCRR Sections 34-2.6 and 58-1.7 | Clinical lab | To the extent necessary to permit clinical laboratories to operate temporary collecting stations to collect specimen from individuals suspected of suffering from a COVID-19 infection |
| ~~Mental Hygiene Law Section 33.17 and associated regulations~~  Reinstated as of July 7, 2020 by EO 202.48 | ~~Transportation of individuals with mental health conditions~~ | ~~To the extent necessary to permit providers to utilize staff members in the most effective means possible to transport individuals receiving services from the Office of Mental Health or a program or provider under the jurisdiction of the Office of Mental Health during the emergency, provided such facilities take all reasonable measures to protect the health and safety of such individuals~~ |
| ~~Mental Hygiene Law sections 29.11 and 29.15 and~~  ~~14 NYCRR section 517~~  Reinstated as of May 8, 2020 by EO 202.28 | ~~Transfer/referral of patients to psychiatric hospitals and discharge of patients to community~~ | ~~To the extent necessary to permit mental health facilities licensed pursuant to Article 31 of the Mental Hygiene Law that are treating patients during the emergency to rapidly discharge, including conditionally discharge, transfer, or receive such patients, as authorized by the Commissioner of the Office of Mental Health, provided such facilities take all reasonable measures to protect the health and safety of such patients and residents, including safe transfer and discharge practices~~ |
| Mental Hygiene Law Section 29.13 and associated regulations | Treatment plans | To the extent individuals in areas affected by the emergency are temporarily receiving services from different providers, whose immediate priority is to stabilize the individual, address acute symptoms, and provide supports including medication and stress relief, such that it is impossible to comply with development, assessment, scope and frequency of, and documentation requirements for, treatment plans |
| ~~PHL Section 6909 subdivision 4~~  ~~Education Law Section 6527 subdivision 6~~  ~~8 NYCRR Section 64.7~~  Superseded by EO 202.69 | ~~Licensure; Miscellaneous provisions regulating physician practice~~ | ~~To the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by this Executive Order to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection~~ |
| PHL Section 2801-a subdivision h  10 NYCRR Section 600.1 | Establishment of hospitals | To the extent necessary to permit the Commissioner of Health to approve the establishment of temporary hospital locations and extensions without following the standard approval processes and to take such further measures as may be necessary to expedite departmental reviews for such approval |
| PHL Section 2999-cc and associated regulations | Telehealth/Telemedicine | To the extent necessary to allow additional telehealth provider categories and modalities, to permit other types of practitioners to deliver services within their scope of practice and to authorize the use of certain technologies for the delivery of health care services to established patients, pursuant to such limitations as the commissioners of such agencies may determine appropriate |
| PHL Sections 2510 and 2511 | CHIP | To the extent necessary to waive or revise eligibility criteria, documentation requirements, or premium contributions; modify covered health care services or the scope and level of such services set forth in contracts; increase subsidy payments to approved organizations, including the maximum dollar amount set forth in contracts; or provide extensions for required reports due by approved organizations in accordance with contracts |
| ~~10 NYCRR Section 400.9 and 405.9(h)(7)~~  Superseded by EO 202.28 | ~~Transfer/admission/discharge~~ | ~~To the extent necessary to permit general hospitals and nursing homes licensed pursuant to Article 28 of the Public Health Law ("Article 28 facilities") that are treating patients during the disaster to rapidly discharge, transfer, or receive such patients, as authorized by the Commissioner of Health, provided such facilities take all reasonable measures to protect the health and safety of such pattients and residents, including safe transfer and discharge practices, and to comply with the Emergency Mdedical Treatment and Active Labor Act (42 USC Section 1395dd) and any associated regulations~~ |
| ~~Mental Hygiene Law Section 41.34~~  ~~14 NYCRR Part 620~~  ~~14 NYCRR 686.3~~  Reinstated as of May 8, 2020 by EO 202.28 | ~~Expansion of OPWDD certified sites, including distinct parts within a general hospital~~ | ~~To the extent necessary to allow facilities certified pursuant to Article 16 of the Mental Hygiene law to increase and/or exceed certified capacity limits without following site selection procedures and/or without providing notification to the appropriate local governmental unit upon approval of the commissioner of OPWDD~~ |
| EO 202.5 – Effective March 18, 2020; Most recently extended through December 3, 2020[[5]](#footnote-5) | | |
| Education Law Sections 6512-6516 and 6524  8 NYCRR Part 60 | Licensure | To the extent necessary to allow physicians licensed and in current good standing in any state in the United States to practice medicine in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Section 6502  8 NYCRR Part 59.8 | Licensure | To the extent necessary to allow physicians licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| Education Law Sections 6512-6516, 6905, 6906 and 6910  8 NYCRR Part 64 | Licensure | To the extent necessary to allow registered nurses, licensed practical nurses, and nurse practitioners licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure |
| ~~Education Law sections 6512-6516 and 6541~~  ~~8 NYCRR Part 60.8~~ | ~~Licensure~~ | ~~To the extent necessary to allow physician assistants licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| 10 NYCRR Section 400.12 | Level of care criteria | To the extent necessary to allow patients affected by the disaster emergency to be transferred to receiving Article 28 facilities as authorized by the Commissioner of Health |
| PHL Section 2805-k  10 NYCRR Sections *405.4, 405.5*, ~~405.9~~, 405.14*, 405.19,* and *405.22*[[6]](#footnote-6)  10 NYCRR Section 405.9 superseded by EO 202.8 | Provider credentialing | To the extent necessary to allow staff with the necessary professional competency and who are privileged and credentialed to work in a facility in compliance with such section of the Public Health Law and such sections of the NYCRR, or who are privileged and credentialed to work in a facility in another state in compliance with the applicable laws and regulations of that other state, to practice in a facility in New York State |
| Mental Hygiene Law Section 16.17 | Suspension, revocation, or Limitation of an OPWDD operating certificate | To the extent necessary to permit the Office of People with Developmental Disabilities to take emergency action to suspend or limit a provider’s operating certificate |
| 14 NYCRR Sections 633.8 and 633.14 | Employee training for OPWDD-certified facilities | To the extent necessary to permit abbreviated training of direct support professionals employed in programs and facilities certified pursuant to Article 16 of the Mental Hygiene Law that are experiencing staff shortages |
| ~~Sections 633.12 and 636-1 of Title 14 of the NYCRR~~ | ~~Deviation from service plans and temporary relocation of individuals~~ | ~~To the extent necessary to temporarily deviate from an individual’s service plan, which would otherwise outline participation in day programming and other community based served, and to the extent necessary to temporarily relocate individuals, in order to maintain the health and safety of that individual during this emergency period and to the extent necessary~~ |
| Mental Hygiene Law Sections 33.02 and 33.05  14 NYCRR Sections 633.4, 636-1.4[[7]](#footnote-7) and 633.16 | Rights of individuals with mental Health disabilities | To the extent necessary to restrict visitors to facilities certified pursuant to Article 16 of the Mental Hygiene law and to permit restrictions on community outings for residents of such facilities to reduce the spread of COVID-19 |
| 14 NYCRR Section 633.17 | Medication administration in OPWDD-certified facilities | To the extent necessary to permit abbreviated medication administration training of direct support professionals employed in programs or facilities certified pursuant to Article 16 of the Mental Hygiene Law |
| EO 202.10 – Effective March 23, 2020; Most recently extended through December 3, 2020[[8]](#footnote-8) | | |
| PHL Section 2803  10 NYCRR Parts 400, 401, ~~405~~ *(Reinstated by* *EO 202.28),* 409, 710, 711 and 712  Note: There is no Part 409 in title 10. It is possible the Governor intended to waive Part 407: Primary Care Hospitals – Minimum Standards | Miscellaneous hospital; Requirements for facility operating certificates; Facility regulations, policies, and procedures | To the extent necessary to permit and require general hospitals to take all measures necessary to increase the number of beds available to patients, in accordance with the directives set forth in Executive Order 202.10, which direct the following:   * the Commissioner of Health shall direct all general hospitals, ambulatory surgery centers, office-based surgery practices and diagnostic and treatment centers to increase the number of beds available to patients, including by canceling all elective surgeries and procedures, as the Commissioner of Health shall define; * General hospitals shall comply with such order by submitting COVID-19 Plans to DOH, on a schedule to be determined by DOH, to accomplish this purpose; and * The Commissioner of Health is authorized to suspend or revoke the operating certificate of any general hospital should they be unable to meet the requirements of the necessary capacity directives; and notwithstanding any law to the contrary the Commissioner may appoint a receiver to continue the operations on 24 hours’ notice to the current operator, in order to preserve the life, health and safety of the people of the State of New York. |
| 10 NYCRR Sections 405.13 and 755.4 | Anesthesia services | To the extent necessary to permit an advanced practice registered nurse with a doctorate or master's degree specializing in the administration of anesthesia administering anesthesia in a ~~general hospital or~~ free-standing ambulatory surgery center without the supervision of a qualified physician in these health care settings |
| Education Law Section 6542 Paragraph 1  10 NYCRR Section 94.2 (a) and (b) | PA performance of medical services; Supervision; Scope of duties | To the extent necessary to permit a physician’s assistant to provide medical services appropriate to their education, training and experience without oversight from a supervising physician without civil or criminal penalty related to a lack of oversight by a supervising physician |
| Education Law Section 6549 Paragraph 1  10 NYCRR Section 94.2 (a) and (b) | Specialist Assistant performance of medical services; Supervision; Scope of duties | To the extent necessary to permit a specialist assistant to provide medical services appropriate to their education, training and experience without oversight from a supervising physician without civil or criminal penalty related to a lack of oversight by a supervising physician |
| Education Law Section 6902, Subdivision 3 and any associated regulations, including, but not limited to, 10 NYCRR Section 64.5  Note: 10 NYCRR 64.5 does not exist. It is possible the Governor intended to waive 8 NYCRR 64.5: Nurse practitioner practice | Definition of practice of nursing | To the extent necessary to permit a nurse practitioner to provide medical services appropriate to their education, training and experience, without a written practice agreement, or collaborative relationship with a physician, without civil or criminal penalty related to a lack of written practice agreement, or collaborative relationship, with a physician |
| ~~Education Law Sections 6527(2), 6545, and 6909(1)~~  Reinstated as of May 8, 2020 by EO 202.28 | ~~Special Provisions for practice of medicine, nursing and emergency services rendered by physician assistants (“Good Samaritan” laws)~~ | ~~To the extent necessary to provide that all physicians, physician’s assistants, specialist assistants, nurse practitioners, licensed registered professional nurses and licensed practical nurses shall be immune from civil liability for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the State’s response to the COVID-19 outbreak, unless it is established that such injury or death was caused by the gross negligence of such medical professional~~ |
| Specific Provisions Not Identified |  | Any healthcare facility is authorized to allow students, in programs to become licensed in New York State to practice as a health care professional, to volunteer at the healthcare facility for educational credit as if the student had secured a placement under a clinical affiliation agreement, without entering into any such clinical affiliation agreement |
| ~~Education Law Section 6530 (32)~~  ~~8 NYCRR Section 29.2 (a)(3)~~  ~~10 NYCRR Sections 58-1.11 and 405.10~~  Reinstated as of May 8, 2020 by EO 202.28  Or any other such laws or regulations are suspended or modified to the extent necessary for health care providers to perform tasks as may be necessary to respond to the COVID-19 outbreak | ~~Unprofessional conduct for health professions;~~  ~~Hospital and laboratory recordkeeping~~ | ~~Notwithstanding any law or regulation to the contrary, health care providers are relieved of recordkeeping requirements to the extent necessary for health care providers to perform tasks as may be necessary to respond to the COVID-19 outbreak, including, but not limited to, requirements to maintain medical records that accurately reflect the evaluation and treatment of patients, or requirements to assign diagnostic codes or to create or maintain other records for billing purposes. Any person acting reasonably and in good faith under this provision shall be afforded absolute immunity from liability for any failure to comply with any recordkeeping requirement. In order to protect from liability any person acting reasonably and in good faith under this provision, requirements to maintain medical records~~ |
| 10 NYCRR Section 405.45 | Trauma centers | To the extent necessary to permit the Commissioner of Health to designate a health care facility as a trauma center, or extend or modify the period for which a health care facility may be designated as a trauma center, or modify the review team for assessment of trauma center |
| 10 NYCRR Section 405.4(b)(6) | Limitations on working hours for medical staff and trainees | To the extent necessary to remove limits on working hours for physicians and postgraduate trainees |
| ~~10 NYCRR Section 405.4(g)(2)(ii)~~  Superseded by EO 202.44 | ~~Physician licensure~~ | ~~To the extent necessary to allow graduates of foreign medical schools having at least one year of graduate medical education to provide patient care in hospitals, is modified so as to allow such graduates without licenses to provide patient care in hospitals if they have completed at least one year of graduate medical education~~ |
| 10 NYCRR Section 405.2(e) | Medical staffing; Staff appointments | To the extent necessary to permit general hospitals affected by the disaster emergency to maintain adequate staffing |
| 10 NYCRR 405.3(b) | Hospital personnel | To the extent necessary to allow general hospitals to use qualified volunteers or personnel affiliated with different general hospitals, subject to the terms and conditions established by the Commissioner of Health |
| PHL Sections 3502 and 3505  10 NYCRR Part 89 | Radiologic technologist licensure | To the extent necessary to permit radiologic technologists licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure |
| PHL Section 3507  10 NYCRR Part 89 | Radiologic technologist registration | To the extent necessary to permit radiologic technologists licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| ~~Education Law Sections 8502, 8504, 8504-a, 8505, and 8507~~  ~~8 NYCRR Subpart 79-4~~ | ~~Respiratory therapist licensure~~ | ~~To the extent necessary to allow respiratory therapists licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| ~~Education Law Section 6502~~  ~~8 NYCRR 59.8~~  Superseded by EO 202.44 | ~~PA licensure~~ | ~~To the extent necessary to allow any physician’s assistant licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration~~ |
| ~~Education Law Section 6502~~  ~~8 NYCRR 59.8~~  Superseded by EO 202.44 | ~~Licensure~~ | ~~To the extent necessary to allow registered professional nurses, licensed practical nurses and nurse practitioners licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration~~ |
| PHL Article 5, Title V  10 NYCRR Subparts 19 and 58 | Laboratory | To the extent necessary to allow laboratories holding a Clinical Laboratory Improvement Amendments (CLIA) certificate and meeting the CLIA quality standards described in 42 CFR Subparts H, J, K and M, to perform testing for the detection of SARS-CoV-2 in specimens collected from individuals suspected of suffering from a COVID-19 infection |
| Education Law Article 139  PHL Section 576-b  10 NYCRR Section 58-1.7 | Nursing; Scope of practice | To the extent necessary to permit registered nurses to order the collection of throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19, for purposes of testing |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)~~  Reinstated as of July 7, 2020 by EO 202.48 |  | ~~No pharmacist shall dispense hydroxychloroquine or chloroquine except when written as prescribed for an FDA-approved indication; or as part of a state approved clinical trial related to COVID-19 for a patient who has tested positive for COVID-19, with such test result documented as part of the prescription. No other experimental or prophylactic use shall be permitted, and any permitted prescription is limited to one fourteen-day prescription with no refills~~ |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) |  | Any licensed health insurance company shall deliver to the Superintendent, no later than March 24, 2020 a list of all persons who have a professional licensure or degree, whether physician’s assistant, medical doctor, licensed registered nurse, licensed nurse practitioner or licensed practical nurse, and whether or not the person has a currently valid, or recently (within past five years) expired license in the state of New York. The Department of Financial Services shall poll such individuals to determine whether or not such professionals would serve in the COVID-19 response effort |
| EO 202.11 – Effective March 27, 2020; Most recently extended through December 3, 2020[[9]](#footnote-9) | | |
| ~~Mental Hygiene Law Sections 16.03 and 16.05~~  ~~14 NYCRR Part 619~~  Superseded by EO 202.13 | ~~Operating certificate requirements to serve individuals with developmental disabilities~~ | ~~To the extent that they limit the provision of certain services to certified settings provided, however, that use of such settings shall require the approval of the commissioner of OPWDD~~ |
| Education Law Sections 6802, 6808, and 6841  8 NYCRR Sections 29.7 (10) and 63.6 | Pharmacy; registered pharmacy technicians; Pharmacist professional misconduct | To the extent necessary to permit pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to prevent any Personal Health Information from being compromised |
| ~~Public Officers Law Section 17(11) and any associated regulations~~  ~~Public Officers Law Section 17(1)(a) and any associated regulations~~ | ~~Defense and Indemnification of State Employees~~ | ~~To the extent necessary to ensure that physicians assisting in the State’s response to COVID-19 in a facility owned or leased by SUNY and operated by SUNY are not excluded from the provisions of section 17 of the Public Officers Law for the medical services provided as part of the State’s response to COVID-19~~  ~~To the extent that SUNY has designated a state volunteer program under this paragraph for SUNY Upstate Hospital, SUNY Stony Brook University Hospital, and University Hospital SUNY Downstate, that is comprised of both compensated and uncompensated volunteers~~ |
| ~~Education Law Sections 6951, 6952, 6953 and 6955~~  Superseded by EO 202.44 | ~~Midwife licensure~~ | ~~To the extent necessary to allow midwives licensed and in current good standing in any state in the United States, or in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| 14 NYCRR Section 633.16 | Support staff for OPWDD-certified programs | To the extent necessary to permit abbreviated training and/or extension of recertification deadlines for direct support professionals employed in programs and facilities certified pursuant to Article 16 of the Mental Hygiene Law that are experiencing staff shortages |
| Education Law Section 6808(1) and any associated regulations | Registered pharmacies | To the extent necessary to temporarily permit registered resident pharmacies and registered resident outsourcing facilities to compound certain alcohol-based hand sanitizer products, consistent with the Food and Drug Administration’s Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (March 2020) |
| ~~Education Law Section 6907(5) and associated regulations~~  Superseded by EO 202.44 | ~~Permits to practice as a RN~~ | ~~To the extent necessary to permit graduates of registered professional nurse and licensed practical nurse licensure qualifying education programs registered by the State Education Department to be employed to practice nursing under the supervision of a registered professional nurse and with the endorsement of the employing hospital or nursing home for 180 days immediately following graduation~~ |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law), amending the Directive set forth in Executive Order 202.10~~  Reinstated as of July 7, 2020 by EO 202.48 | ~~Dispensing hydroxychloroquine or chloroquine~~ | ~~No pharmacist shall dispense hydroxychloroquine or chloroquine except when written: as prescribed for an FDA-approved indication; for an indication supported by one or more citations included or approved for inclusion in the compendia specified in 42 U.S.C. 1396r–8(g)(1)(B)(i); for patients in inpatient settings and acute settings; for residents in a subacute part of a skilled nursing facility; or as part of an study approved by an Institutional Review Board. Any person authorized to prescribe such medications shall denote on the prescription the condition for which the prescription has been issued~~ |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) | Preemption of State guidance over prior State guidance and local guidance | Any guidance issued by the New York State Department of Health related to prevention and infection control of COVID-19 shall be effective immediately and shall supersede any prior conflicting guidance issued by the New York State Department of Health and any guidance issued by any local board of health, any local department of health, or any other political subdivision of the State related to the same subject |
| EO 202.12 – Effective March 28, 2020 through June 6, 2020 | | |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)~~ | ~~Labor/delivery – support person~~ | ~~Any article twenty-eight facility licensed by the state, shall, as a condition of licensure permit the attendance of one support person who does not have a fever at the time of labor/delivery to be present as a support person for a patient who is giving birth~~ |
| EO 202.13 – Effective March 29, 2020; Most recently extended through December 3, 2020[[10]](#footnote-10) | | |
| Mental Hygiene Law Sections 16.03 and 16.05  14 NYCRR Part 619 | Operating certificate requirements to serve individuals with developmental disabilities | To the extent that they limit the provision of certain services to certified settings provided, however, that use of such settings shall require the approval of the commissioner of OPWDD |
| Mental Hygiene Law Sections 16.33, 16.34, 31.35 and 19.20  14 NYCRR Sections 550, 633.5, 633.24 and 805 | Background Check Requirements for Employees serving the I/DD population and individuals with substance use disorder | To the extent necessary to allow current employees of OPWDD or OPWDD approved providers . . ., OMH or OMH licensed, funded or approved programs who have previously undergone such background checks to be employed by a different OPWDD approved provider . . . and/or OMH licensed, funded or approved program without undergoing new background checks. These provisions are also waived to the extent necessary to allow providers the discretion to permit already qualified individuals and who are not listed on the Staff Exclusion List to work unsupervised while an updated background check is completed |
| ~~Modification of Executive Order 202.12~~ | ~~Labor/Delivery/Postpartum Services~~ | ~~The directive of Executive Order 202.12 requiring a support person for a patient giving birth is modified insofar as to cover labor, delivery as well as the immediate postpartum period~~ |
| EO 202.14 – Effective April 7, 2020; Most recently extended through December 3, 2020[[11]](#footnote-11) | | |
| ~~Education Law Section 6524~~  ~~8 NYCRR Section 60.7~~  ~~10 NYCRR Section 405.4(g)(1)~~  Superseded by EO 202.44 | ~~Physician licensure; residents; medical staff~~ | ~~To the extent necessary to allow any physician who will graduate in 2020 from an academic medical program accredited by a medical education accrediting agency for medical education by the Liaison Committee on Medical Education or the American Osteopathic Association, and has been accepted by an Accreditation Council for Graduate Medical Education accredited residency program within or outside of New York State to practice at any institution under the supervision of a licensed physician~~ |
| Surrogate’s Court Procedure Act Section 1726 subdivisions 1, 2,4, 5, 8, 9 | Standby guardians | Any parent, a legal guardian, a legal custodian, or primary caretaker who works or volunteers in a health care facility or who reasonably believes that they may otherwise be exposed to COVID-19, may designate a standby guardian by means of a written designation, in accordance with the process set forth in such subdivisions; and such designation shall become effective also in accordance with the process set forth in such subdivisions |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) | Medical equipment | Any medical equipment (personal protective equipment (PPE), ventilators, respirators, bi-pap, anesthesia, or other necessary equipment or supplies as determined by the Commissioner of Health) that is held in inventory by any entity in the state, or otherwise located in the state shall be reported to DOH. DOH may shift any such items not currently needed, or needed in the short term future by a health care facility, to be transferred to a facility in urgent need of such inventory, for purposes of ensuring New York hospitals, facilities and health care workers have the resources necessary to respond to the COVID-19 pandemic, and distribute them where there is an immediate need. The DOH shall either return the inventory as soon as no longer urgently needed and/or, in consultation with the Division of the Budget, ensure compensation is paid for any goods or materials acquired at the rates prevailing in the market at the time of acquisition, and shall promulgate guidance for businesses and individuals seeking payment |
| EO 202.15 – Effective April 9, 2020; Most recently extended through September 4, 2020[[12]](#footnote-12) | | |
| ~~Education Law 6808~~  ~~Article 137 of the NYCRR~~  ~~Note: Article 137 of the NYCRR does not exist. We believe it refers to Article 137 of the Education Law, which governs pharmacies~~ | ~~Pharmacy Licensure and receipt of drugs and medical supplies~~ | ~~To the extent necessary to allow that a New York-licensed pharmacy may receive drugs and medical supplies or devices from an unlicensed pharmacy, wholesaler, or third-party logistics provider located in another state to alleviate a temporary shortage of a drug or device that could result in the denial of health care under the following conditions:~~   * ~~The unlicensed location is appropriately licensed in its home state, and documentation of the license verification can be maintained by the New York pharmacy~~ * ~~The pharmacy maintains documentation of the temporary shortage of any drug or device received from any pharmacy, wholesaler, or third-party logistics provider not licensed in New York~~ * ~~The pharmacy complies with all record-keeping requirements for each drug and device received from any pharmacy, wholesaler, or third-party logistics provider not licensed in New York~~ * ~~All documentation and records required above shall be maintained and readily retrievable for three years following the end of the declared emergency~~   ~~The drug or device was produced by an authorized FDA registered drug manufacturer~~ |
| ~~Education Law Sections 6512 through 6516, and 6524~~  ~~8 NYCRR Part 60~~  Superseded by EO 202.44 | ~~Medical students; physician licensure~~ | ~~To the extent necessary to allow individuals, who graduated from registered or accredited medical programs located in New York State in 2020, to practice medicine in New York State, without the need to obtain a license and without civil or criminal penalty related to lack of licensure, provided that the practice of medicine by such graduates shall in all cases be supervised by a physician licensed and registered to practice medicine in the State of New York~~ |
| ~~Subparagraphs (ii) and (iii) of paragraph (b) and paragraph (c) of subdivision (4) of section 2801-a of the Public Health Law, and subparagraph (ii) of paragraph (c) of subdivision (1) and paragraph (c) of subdivision (2) of section 3611-a of the Public Health Law~~ | ~~Transfer notices~~ | ~~To the extent necessary to limit the Department of Health’s review functions to essential matters during the pendency of the COVID-19 health crisis, and to toll any statutory time limits for transfer notices pertaining to operators of Article 28 and Article 36 licensed entities for the duration of this declaration of disaster emergency, and any subsequent continuation thereof~~ |
| ~~Education Law Sections 6512 through 6516, 8402, 8403, 8404, 8405~~  ~~8 NYCRR Parts 79-9, 79-10, 79-11 and 79-12~~ | ~~Mental health professional licensure~~ | ~~To the extent necessary to allow mental health counselors, marriage and family therapists, creative arts therapists and psychoanalysts licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| ~~Education Law Sections 6512 through 6516 and 8510~~  ~~8 NYCRR Part 79-4~~  Superseded by EO 202.44 | ~~Respiratory therapy technician licensure~~ | ~~To the extent necessary to allow respiratory therapy technicians licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| EO 202.16 – Effective April 12, 2020; Most recently extended through December 3, 2020[[13]](#footnote-13) | | |
| Education Law Sections 8602 and 8603  10 NYCRR Section 58-1.5 | Clinical lab technologist licensure | To the extent necessary to permit individuals to perform testing for the detection of SARS-CoV-2, or its antibodies, in specimens collected from individuals suspected of suffering from a COVID-19 infection; individuals performing testing must meet the federal requirements for testing personnel appropriate to the assay or device authorized by the FDA or the New York State Department of Health |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) |  | For all essential businesses or entities, any employees who are present in the workplace shall be provided and shall wear face coverings when in direct contact with customers or members of the public. Businesses must provide, at their expense, such face coverings for their employees. This provision may be enforced by local governments or local law enforcement as if it were an order pursuant to section 12 or 12-b of the Public Health Law. This requirement shall be effective Wednesday, April 15 at 8 p.m. |
| EO 202.18 – Effective April 16, 2020; Most recently extended through December 3, 2020[[14]](#footnote-14) | | |
| ~~Education Law Sections 6512 through 6516, and 6905, 6906 and 6910~~  ~~8 NYCRR Part 64~~  Superseded by EO 202.44 | ~~Nursing licensure~~ | ~~To the extent necessary to allow registered nurses, licensed practical nurses, and nurse practitioners or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| ~~Education Law Sections 6512 through 6516, and 6524~~  ~~8 NYCRR Part 60~~  Superseded by EO 202.44 | ~~Physician licensure~~ | ~~To the extent necessary to allow physicians licensed and in current good standing in any province or territory of Canada, to practice medicine in New York State without civil or criminal penalty related to lack of licensure~~ |
| ~~Education Law Sections 6512 through 6516, and 6541~~  ~~8 NYCRR Part 60.8~~  Superseded by EO 202.44 | ~~PA licensure~~ | ~~To the extent necessary to allow physician assistants or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure~~ |
| PHL Sections 3502 and 3505  10 NYCRR Part 89 | Radiologic technologist licensure | To the extent necessary to permit radiologic technologists or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure |
| ~~Education Law Sections 6512 through 6516, 6548 and 6911~~  ~~8 NYCRR Sections 60.11 and 64.8~~  Superseded by EO 202.44 | ~~Nurse specialist licensure~~ | ~~To the extent necessary to allow clinical nurse specialists, specialist assistants, and substantially similar titles certified and in current good standing in any state in the United States, or any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of certification~~ |
| ~~Education Law Section 6502~~  ~~8 NYCRR Section 59.8~~  Superseded by EO 202.44 | ~~Licensure~~ | ~~To the extent necessary to allow specialist assistants, respiratory therapists, respiratory therapist technicians, pharmacists, clinical nurse specialists, dentists, dental hygienists, registered dental assistants, midwives, perfusionists, clinical laboratory technologists, cytotechnologists, certified clinical laboratory technicians, certified histological technicians, licensed clinical social workers, licensed master social workers, podiatrists, physical therapists, physical therapist assistants, mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and psychologists who have an unencumbered license and are currently in good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration~~ |
| ~~Education Law Section 6908 and associated regulations~~  Reiterated in EO 202.44 | ~~Nurse practitioner licensure~~ | ~~To the extent necessary to permit graduates of State Education Department registered, licensure qualifying nurse practitioner education programs to be employed to practice nursing in a hospital or nursing home for 180 days immediately following successful completion of a New York State Registered licensure qualifying education program, provided that the graduate files with the State Education Department an application for certification as a nurse practitioner~~ |
| ~~Education Law Section 8609 and associated regulations~~  Superseded by EO 202.44 | ~~Clinical laboratory practitioner licensure~~ | ~~To the extent necessary to permit graduates of State Education Department registered, licensure qualifying clinical laboratory technology and clinical laboratory technician education programs to be employed to practice for 180 days immediately following successful completion of a New York State Registered licensure qualifying education program, in a clinical laboratory with a valid New York State permit, provided that the graduate files an application for a New York State clinical laboratory practitioner license and limited permit~~ |
| Education Law Section 6808  8 NYCRR 63.6 and 63.8 | Pharmacy registration | To the extent necessary to extend the triennial registrations of pharmacy establishments who are currently registered and whose registration is set to expire on or after March 31, 2020. An application for re-registration of such registrations shall be submitted no later than 30 days after expiration of Executive Order 202 |
| Education Law Sections 6802, 6808, and 6841  8 NYCRR Parts 29.7 (10) and 63.6 | Pharmacy practitioner licensure | To the extent necessary to permit pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to prevent any Personal Health Information from being compromised |
| Not-for-Profit Corporations Law Section 603(b) | Not-for-profit regulation | To the extent necessary to permit annual meetings of members to be held remotely or by electronic means |
| Education Law Article 165  10 NYCRR Section 58-1.3 | Clinical lab supervision | To the extent necessary to allow clinical laboratory practitioners to perform testing in a clinical laboratory under remote supervision, provided a supervisor is on-site at least eight hours per week |
| EO 202.19 – Effective April 17, 2020; Most recently extended through December 3, 2020[[15]](#footnote-15) | | |
| Labor Law Section 860-b (1) | Layoff notice requirements | To the extent necessary to allow a business that receives federal Paycheck Protection Program funding and subsequently rehires employees, to provide the notice required under this section as soon as practicable but not necessarily within ninety days, provided that a business that receives federal Paycheck Protection Program funding provided the notice required under this section when it initially laid off employees |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) | COVID-19 testing | The Department of Health shall hereby establish a single, statewide coordinated testing prioritization process that shall require all laboratories in the state, both public and private, that conduct COVID-19 diagnostic testing, to complete such COVID-19 diagnostic testing only in accordance with such process. Any such laboratories shall prioritize testing of entities or individuals as directed by this coordinated statewide process. Any such laboratories may not, without an exemption from the Department of Health, enter into an agreement that would reserve testing capabilities for any private or public entity and therefore impede the Departments’ ability to prioritize and coordinate COVID-19 testing in New York State. Any violation of this directive may result in a civil penalty not to exceed $10,000 or three times the value of such testing provided in violation of this section and provided further that the Commissioner is hereby empowered and may revoke any operating certificate or license of such laboratory |
| EO 202.24 – Effective April 25, 2020 through May 25, 2020 | | |
| ~~Education Law Section 6801~~ | ~~Pharmacy Practice~~ | ~~To the extent necessary to authorize licensed pharmacists to order COVID-19 tests, approved by the Food and Drug Administration (FDA), to detect SARS-CoV-2 or its antibodies, and to administer COVID-19 tests subject to certificate of waiver requirements pursuant to the federal clinical laboratory improvement act of nineteen hundred eighty-eight, in patients suspected of a COVID-19 infection, or suspected of having recovered from COVID-19 infection, subject to completion of appropriate training developed by the Department of Health~~ |
| ~~PHL Section 571(6)~~ | ~~Clinical lab~~ | ~~To the extent necessary to permit licensed pharmacists to be designated as a qualified healthcare professional for the purpose of directing a limited service laboratory, pursuant to subdivision 579(3) of the Public Health Law, to test patients suspected of a COVID-19 infection or its antibodies provided that such test is FDA-approved and waived for use in a limited service laboratory~~ |
| EO 202.25 – Effective April 29, 2020 through May 29, 2020 | | |
| ~~10 NYCRR Sections 401.3(a), 401.3(e), and 710.1~~  ~~NYCRR Parts 709 and 710~~  ~~Note: Title is omitted from the Executive Order. It is possible the intended reference was to Title 10.~~  ~~Any other applicable regulations~~ | ~~Medical facilities; birthing centers~~ | ~~To the extent necessary to allow for the approval and certification by the Commissioner of Health of temporary dedicated birthing sites operated by currently licensed birthing hospitals and currently licensed birthing centers~~ |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) modifying Executive Orders 202.13 and 202.12~~ | ~~Labor and delivery~~ | ~~Any article twenty-eight facility, shall, as a condition of licensure, allow any patient giving birth to have present with them: a support person, who does not have symptoms of COVID-19, for the labor, delivery and also the remaining duration of the patient’s stay; and/or a doula, who does not have symptoms of COVID-19 for the labor, delivery, and the remaining duration of the patient’s stay. The presence of a support person and/or doula will be subject to exceptions for medical necessity determined by the Commissioner~~ |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) modifying Executive Order 202.10~~ |  | ~~To the extent necessary to authorize general hospitals to perform elective surgeries and procedures so long as the following criteria are met:~~   * ~~within a county, the total available hospital inpatient capacity is over thirty percent and the total available hospital ICU capacity is over thirty percent and the total change, from April 17, 2020 to April 27, 2020, in the number of hospitalized patients who are positive for COVID-19 is fewer than ten;~~ * ~~for each hospital within county that has met the eligibility criteria, the available hospital inpatient capacity is over thirty percent and the available hospital ICU capacity is over thirty percent and the change, from April 17, 2020 to April 27, 2020, in the number of hospitalized patients who are positive for COVID-19 is fewer than ten~~   ~~The Commissioner of Health is authorized to issue guidance with respect to the implementation of these criteria.~~  ~~General hospitals that are authorized to perform elective surgeries and procedures must report, at a minimum, the number and types of surgeries and procedures performed to the Department of Health, in a manner prescribed by the Commissioner. General hospitals that do not meet the criteria to perform elective surgeries and procedures contained in this directive may seek a waiver from the prohibition, by submitting a plan that includes, at a minimum, their facility capacity, physical configuration, infectious disease protocols, and staffing capacity, including any applicable employment hardship information that includes any reductions in workforce, including furloughs, that have occurred due to the inability of such facility to perform elective surgeries or procedures, or any reductions in workforce, including furloughs, that may imminently occur due to the inability of such facility to perform elective surgeries or procedures, to the Department of Health, in a manner prescribed by the Commissioner. General hospitals shall not perform any elective surgery or procedure for patients until each such patient has tested negative for COVID-19 through an approved diagnostic test, and the hospital and patient have complied with the pre-operative and pre-procedure guidelines in a manner prescribed by the Commissioner~~ |
| EO 202.27 – Effective May 5, 2020; Most recently extended through July 5, 2020[[16]](#footnote-16) | | |
| ~~Extension of existing waivers and suspensions~~  Superseded by EO 202.44 | ~~Licensure~~ | ~~Any suspension or modification of any law heretofore suspended in Executive Order 202, or any amended or modified Executive Order issued thereafter, which allowed for the practice of a profession in the state of New York without a current New York State licensure, or registration, including but not limited to those individuals who are validly licensed in another state or Canada, is hereby extended for a period of thirty days to allow those professionals the ability to continue to provide services necessary for the State’s COVID-19 response~~ |
| EO 202.28 – Effective May 7, 2020; Most recently through December 3, 2020[[17]](#footnote-17) | | |
| ~~Extends waivers set forth in Executive Orders 202 up to and including 202.14, through June 6, 2020, with the exception of the reinstated regulations and laws set forth below~~ |  |  |
| 10 NYCRR Section 405.9 | Privileges and credentialling | Except to the limited extent that it would allow a practitioner to practice in a facility where they are not credentialed or have privileges – for this purpose the regulation shall continue to be suspended |
| Reinstates all codes related to construction, energy conservation, or other building code, and all state and local laws, ordinances, and regulations which would have otherwise been superseded, upon approval by the Commissioner of OPWDD, as applicable only for temporary changes to physical plant, bed capacities, and services provided; for facilities under the Commissioners jurisdiction | Regulation of temporary changes to physical plant for OPWDD-certified facilities |  |
| EO 202.30 – Effective May 10, 2020 through June 9, 2020 | | |
| ~~PHL Section 4656 (7)~~  ~~18 NYCRR Section 488.9 subdivision (a) paragraph (5), Section 487.9 subdivision (a) paragraph (8), and Section 415.26 subdivision (c) paragraph (1) subparagraph (v) clause (6)~~  Reinstated as of June 10, 2020by EO 202.40 | ~~Nursing home staff testing~~ | ~~To the extent necessary to require that the operator and administrator of all nursing homes and all adult care facilities, including all adult homes, enriched housing programs, and assisted living residences to test or make arrangements for the testing of all personnel, including all employees, contract staff, medical staff, operators, and administrators, for COVID-19, twice per week, pursuant to a plan developed by the facility administrator and filed with the Department of Health no later than 5:00 pm on Wednesday, May 13, 2020. Any positive test result shall be reported to the Department of Health by 5:00 pm of the day following receipt of such test result, in a manner determined by the Commissioner of Health. Nothing therein shall prohibit staff of the Department of Health, or the local health department in the jurisdiction of the nursing home or adult care facility from having unrestricted access to the facility where such access is determined necessary in the discretion of the Commissioner of Health for purposes of testing all personnel for COVID-19, and provided further that in such circumstances the operator and administrator shall cooperate fully with Department of Health and local health department staff to facilitate such testing~~ |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)~~  Reinstated as of June 10, 2020 by EO 202.40 | ~~Hospital discharge~~ | ~~Any article 28 general hospital shall not discharge a patient to a nursing home, unless the nursing home operator or administrator has first certified that it is able to properly care for such patient. Provided further, that any article 28 general hospital shall not discharge a patient to a nursing home, without first performing a diagnostic test for COVID-19 and obtaining a negative result~~ |
| EO 202.32 – Effective May 21, 2020 through June 20, 2020 | | |
| ~~Education Law Section 6530~~ | ~~Testing~~ | ~~To the extent necessary to allow physicians to order COVID-19 tests authorized by the US Food and Drug Administration for self-collection, without otherwise having an initial physician-patient relationship with the patient~~ |
| EO 202.36 – Effective June 5, 2020; Most recently extended through December 19, 2020[[18]](#footnote-18) | | |
| Education Law Section 6530 or any section of the PHL | Laboratory test | To the extent necessary to allow a questionnaire administered through an asynchronous electronic interface or electronic mail that is approved by a physician licensed in the State of New York to be sufficient to establish a practitioner-patient relationship for purposes of ordering a clinical laboratory test |
| EO 202.40 – Effective June 10, 2020 through December 3, 2020[[19]](#footnote-19) | | |
| Reinstated PHL Section 4656 (7)  18 NYCRR Section 488.9 subdivision (a) paragraph (5), Section 487.9 subdivision (a) paragraph (8), and Section 415.26 subdivision (c) paragraph (1) subparagraph (v) clause (6) | Nursing home staff testing | As contained in EO 202.30, modifications are maintained, provided that such modification is amended only to the extent that the operator and administrator of all nursing homes and all adult care facilities, which are located in regions that have reached Phase Two of reopening, must test or make arrangements for the testing of all personnel, including all employees, contract staff, medical staff, operators, and administrators, for COVID-19, once per week |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law) | Hospital discharge | Any article 28 general hospital shall not discharge a patient to a nursing home, unless the nursing home operator or administrator has first certified that it is able to properly care for such patient. Provided further, that any article 28 general **hospital shall not** discharge a patient to a nursing home, without first performing a diagnostic test for COVID-19 and obtaining a negative result |
| EO 202.44 – Effective June 21, 2020 through December 13, 2020[[20]](#footnote-20) | | |
| Education Law Section 680 | Pharmacy practice | To the extent necessary allow licensed pharmacists to order and administer COVID-19 tests or tests for its antibodies |
| Reinstates PHL Section 571(6) | Clinical lab | To the extent necessary to permit licensed pharmacists to be designated as qualified healthcare professionals so they can direct a limited service laboratory, pursuant to subdivision 579(3) of the Public Health Law, to test patients for COVID-19 or its antibodies |
| 10 NYCRR Sections 401.3(a), (e), 709, 710 and 710.1  Any other applicable regulations | Medical facilities; birthing centers | To the extent necessary to allow for the Department of Health to approve and certify dedicated birthing sites operated by licensed birthing hospitals and centers |
| Education Law 6530 | Medicine; Scope of practice | To the extent necessary to allow physicians to order COVID-19 tests for self-collection without having a physician-patient relationship |
| Reinstates directive (not a waiver of statute or regulation, but authorized under Executive Law Section 29-A) modifying Executive Orders 202.12 and 202.13 | Labor/Delivery/Postpartum Services | The directives of Executive Order 202.12 and 202.13 are modified insofar as to require any article twenty-eight facility, shall, as a condition of licensure, allow any patient giving birth to have present with them a support person and/or doula, who does not have symptoms of COVID-19, for the labor, deliver, and also the remaining duration of the patient’s stay. The presence of a support person and/or doula will be subject to exceptions for medical necessity determined by the Commissioner of Health |
| ~~Reinstatement of directive (not waiver of statute or regulation, but authorized under PHL Section 2803and 10 NYCRR Parts 400, 401, 405 (Reinstated by EO 202.28), 409, 710, 711 and 712) modifying Executive Order 202.10~~  Superseded by EO 202.45 | ~~Miscellaneous hospital requirements regulated by the Commissioner of Health; Requirements for facility operating certificates; Facility regulations; policies and procedures~~ | ~~The directive of Executive Order 202.10 authorizing the Commissioner of Health to direct all general hospitals, ambulatory surgery centers, office-based surgery practices, and diagnostic and treatment centers to increase the number of beds available to patients, including by cancelling all elective surgeries and procedures, is hereby modified only to the extent necessary to authorize general hospitals to perform elective surgeries and procedures so long as the following criteria are met: within a county, the total available hospital inpatient capacity is over thirty percent and the total available hospital ICU capacity is over thirty percent and the total change, from April 17, 2020 to April 27, 2020, in the number of hospitalized patients who are positive for COVID-19 is fewer than ten; for each hospital within a county that has met the eligibility criteria. The Commissioner of Health is authorized to issue guidance with respect to the implementation of these criteria.~~  ~~General hospitals that are authorized to perform elective surgeries and procedures must report, at a minimum, the number and types of surgeries and procedures performed to DOH in a manner prescribed by the Commissioner of Health~~  ~~General hospitals that do not meet the criteria to perform elective surgeries and procedures may seek a waiver from the prohibition, by submitting a plan that includes, at a minimum, their facility capacity, physical configuration, infectious disease protocols, and staffing capacity, including any applicable employment hardship information that includes any reductions in workforce, including furloughs, that have occurred due to the inability of such facility to perform elective surgeries of procedures, or any reductions in workforce, including furloughs, that may imminently occur due to the inability of such facility to perform elective surgeries or procedures, to the Department of Health, in a manner prescribed by the Commissioner of Health.~~  ~~General hospitals shall not perform any elective surgery or procedure for patients until each such patient has tested negative for COVID-19 through an approved diagnostic test, and the hospital and patient have complied with the pre-operative and pre-procedure guidelines in a manner prescribed by the Commissioner of Health~~ |
| Extension of any suspension or modification on out-of-state health professional licensure or registration in Executive Order 202 or any Executive Order issued thereafter | Out-of-State licensure/registration | Any suspension or modification of any law heretofore suspended in Executive Order 202, or any amended or modified Executive Order issued thereafter, which allowed for the practice of a profession in New York State without a current New York State licensure or registration, including but not limited to those individuals who are validly licensed in another state or Canada |
| 10 NYCRR Section 405.4(g)(2)(ii) | Physician licensure | To the extent necessary to allow graduates of foreign medical schools having at least one year of graduate medical education to provide patient care in hospitals, is modified so as to allow such graduates without licenses to provide patient care in hospitals if they have completed at least one year of graduate medical education |
| Education Law Section 6502  8 NYCRR 59.8 | PA licensure | To the extent necessary to allow any physician’s assistant licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| Education Law Section 6502  8 NYCRR 59.8 | Licensure | To the extent necessary to allow registered professional nurses, licensed practical nurses and nurse practitioners licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| Education Law Section 6907(5) and associated regulations | Permits to practice as a RN | To the extent necessary to permit graduates of registered professional nurse and licensed practical nurse licensure qualifying education programs registered by the State Education Department to be employed to practice nursing under the supervision of a registered professional nurse and with the endorsement of the employing hospital or nursing home for 180 days immediately following graduation |
| Education Law Sections 6951, 6952, 6953 and 6955 | Midwife licensure | To the extent necessary to allow midwives licensed and in current good standing in any state in the United States, or in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Section 6524  8 NYCRR Section 60.7  10 NYCRR Section 405.4(g)(1) | Physician licensure; residents; medical staff | To the extent necessary to allow any physician who will graduate in 2020 from an academic medical program accredited by a medical education accrediting agency for medical education by the Liaison Committee on Medical Education or the American Osteopathic Association, and has been accepted by an Accreditation Council for Graduate Medical Education accredited residency program within or outside of New York State to practice at any institution under the supervision of a licensed physician |
| Education Law Sections 6512 through 6516 and 8510  8 NYCRR Part 79-4 | Respiratory therapy technician licensure | To the extent necessary to allow respiratory therapy technicians licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Sections 6512 through 6516, and 6524  8 NYCRR Part 60 | Medical students; physician licensure | To the extent necessary to allow individuals, who graduated from registered or accredited medical programs located in New York State in 2020, to practice medicine in New York State, without the need to obtain a license and without civil or criminal penalty related to lack of licensure, provided that the practice of medicine by such graduates shall in all cases be supervised by a physician licensed and registered to practice medicine in the State of New York |
| Education Law Sections 6512 through 6516, and 6905, 6906 and 6910  8 NYCRR Part 64 | Nursing licensure | To the extent necessary to allow registered nurses, licensed practical nurses, and nurse practitioners or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Sections 6512 through 6516, and 6524  8 NYCRR Part 60 | Physician licensure | To the extent necessary to allow physicians licensed and in current good standing in any province or territory of Canada, to practice medicine in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Sections 6512 through 6516, and 6541  8 NYCRR Part 60.8 | PA licensure | To the extent necessary to allow physician assistants or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Sections 6512 through 6516, 6548 and 6911  8 NYCRR Sections 60.11 and 64.8 | Nurse specialist licensure | To the extent necessary to allow clinical nurse specialists, specialist assistants, and substantially similar titles certified and in current good standing in any state in the United States, or any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of certification |
| Education Law Section 6502  8 NYCRR Section 59.8 | Licensure | To the extent necessary to allow specialist assistants, respiratory therapists, respiratory therapist technicians, pharmacists, clinical nurse specialists, dentists, dental hygienists, registered dental assistants, midwives, perfusionists, clinical laboratory technologists, cytotechnologists, certified clinical laboratory technicians, certified histological technicians, licensed clinical social workers, licensed master social workers, podiatrists, physical therapists, physical therapist assistants, mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and psychologists who have an unencumbered license and are currently in good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| Education Law Section 6908 and associated regulations | Nurse practitioner licensure | To the extent necessary to permit graduates of State Education Department registered, licensure qualifying nurse practitioner education programs to be employed to practice nursing in a hospital or nursing home for 180 days immediately following successful completion of a New York State Registered licensure qualifying education program, provided that the graduate files with the State Education Department an application for certification as a nurse practitioner |
| Education Law Section 8609 and associated regulations | Clinical laboratory practitioner licensure | To the extent necessary to permit graduates of State Education Department registered, licensure qualifying clinical laboratory technology and clinical laboratory technician education programs to be employed to practice for 180 days immediately following successful completion of a New York State Registered licensure qualifying education program, in a clinical laboratory with a valid New York State permit, provided that the graduate files an application for a New York State clinical laboratory practitioner license and limited permit |
| EO 202.45 – Effective June 15, 2020 through December 13, 2020[[21]](#footnote-21) | | |
| Reinstates directive (not waiver of statute or regulation, but authorized under PHL Section 2803and 10 NYCRR Parts 400, 401, 405 (Reinstated by EO 202.28), 409, 710, 711 and 712) modifying Executive Order 202.10 | Miscellaneous hospital requirements regulated by the Commissioner of Health; Requirements for facility operating certificates; Facility regulations; policies and procedures | The directive contained in Executive Order 202.44 regarding elective surgeries is hereby amended to provide at the directive contained in Executive Order 202.10 authorizing the Commissioner of Health to direct all general hospitals, ambulatory surgery centers, office-based surgery practices and diagnostic and treatment centers to increase the number of beds available to patients, including by cancelling all elective surgeries and procedures, is hereby modified to authorize general hospitals to perform elective surgeries and procedures so long as the established criteria are met currently, whether or not such criteria were met on the dates set forth in such directive, and as modified by the June 14 Department of Health guidance |
| EO 202.61 – Effective September 9, 2020 through December 3, 2020[[22]](#footnote-22) | | |
| ~~PHL Section 579 subdivision 1~~  Superseded by EO 202.72 | ~~Clinical lab~~ | ~~To the extent necessary to require immediate reporting (not more than 3 hours) of results of COVID-19 and influenza testing by additional clinical laboratories, including those operated by a licensed physician, osteopath, dentist, midwife, nurse practitioner, or optometrist who is authorized by the FDA or Department of Health to administer a point of care COVID-19 test and registered with the Department of Health as a physician office laboratory, in accordance with PHL Section 576-c and NYCRR Section 58-1.14; provided further as it relates to COVID-19 testing, containing information pertaining to attendance and employment in school as required by the directives included in this Executive Order~~ |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-a of the Executive Law)~~  Superseded by EO 202.72 | ~~Licensed professionals~~ | ~~Every licensed professional authorized by the Department of Health Physician Office Laboratory Evaluation Program to administer a test for COVID-19 or influenza, whether alone or in conjunction with any other test, shall report such results immediately (not more than 3 hours) to the Department of Health through the Electronic Clinical Laboratory Reporting System (ECLRS) when a result is received~~   * ~~Provided further that every professional authorized to administer a test for COVID-19 shall not take such sample or administer such test without inquiring, if such individual attends school, and if so, as to where such individual attends school and to report such data to ECLRS; and as to place of employment, and whether the individual works or volunteers in an elementary, secondary school, or post-secondary school, and if so, to report such data to ECLRS~~ * ~~Additionally, every professional authorized to administer a test for COVID-19 shall not take such sample or administer such test without inquiring as to the individual’s local address, if such address differs from the individual’s permanent address, and such local address must be reported to ECLRS~~ |
| ~~Directive (not a waiver of statute or regulation, but authorized under Section 29-a of the Executive Law)~~  Superseded by EO 202.72 | ~~Clinical lab~~ | ~~Every licensed laboratory in the state of New York shall require that, prior to processing any specimen for a COVID-19 test, alone or in conjunction with a test for any other communicable disease, information related to school or attendance, or place of employment or volunteer work for any adult, be transmitted to such laboratory along with such sample. Such information must be reported to the State Department of Health via ECLRS~~ |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-a of the Executive Law) | Local health department | Every local health department in the state of New York shall report to the Department of Health, on a daily basis, in a form and manner to be determined by the Department, all COVID-19 testing and diagnoses for any individual who is a student, teacher, and any other individual who is a school employee or volunteer, for both higher and lower education institutions and districts. Such daily report shall include any other data elements as the Commissioner of Health determines to be appropriate to the track of outbreaks of COVID-19 within higher and lower education institutions, schools, and school districts |
| EO 202.69 – Effective October 14, 2020 through December 13, 2020[[23]](#footnote-23) | | |
| PHL Section 6909 subdivision 4  Education Law Section 6527 subdivision 6  8 NYCRR Section 64.7 | Licensure; Miscellaneous provisions regulating physician practice | To the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by this Executive Order to collect throat, nasopharyngeal, or saliva swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection |
| EO 202.72 – Effective October 14, 2020 through December 3, 2020 | | |
| PHL Section 579 subdivision 1 | Clinical lab | To the extent necessary to require reporting within 24 hours of results of COVID-19 and influenza testing by additional clinical laboratories, including those operated by a licensed physician, osteopath, dentist, midwife, nurse practitioner, or optometrist who is authorized by the FDA or Department of Health to administer a point of care COVID-19 test and registered with the Department of Health as a physician office laboratory, in accordance with PHL Section 576-c and NYCRR Section 58-1.14; provided further as it relates to COVID-19 testing, containing information pertaining to attendance and employment in school as required by the directives included in this Executive Order |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-a of the Executive Law) | Licensed professionals | Every licensed professional authorized by the Department of Health Physician Office Laboratory Evaluation Program to administer a test for COVID-19 or influenza, whether alone or in conjunction with any other test, shall report such results within 24 hours to the Department of Health through the Electronic Clinical Laboratory Reporting System (ECLRS) when a result is received, provided the Department may require more frequent reporting if deemed necessary   * Provided further that every professional authorized to administer a test for COVID-19 shall not take such sample or administer such test without inquiring, if such individual attends school, and if so, as to where such individual attends school and to report such data to ECLRS; and as to place of employment, and whether the individual works or volunteers in an elementary, secondary school, or post-secondary school, and if so, to report such data to ECLRS * Additionally, every professional authorized to administer a test for COVID-19 shall not take such sample or administer such test without inquiring as to the individual’s local address, if such address differs from the individual’s permanent address, and such local address must be reported to ECLRS |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-a of the Executive Law) | Clinical lab | Every licensed laboratory in the state of New York shall require that, prior to processing any specimen for a COVID-19 test, alone or in conjunction with a test for any other communicable disease, information related to school or attendance, or place of employment or volunteer work for any adult, be transmitted to such laboratory along with such sample. Such information must be reported to the State Department of Health via ECLRS |

1. Under Section 28 of the New York Executive Law, the March 7 declared disaster emergency was extended under Executive Order 202.72 [↑](#footnote-ref-1)
2. Extended under Executive Order 202.72 [↑](#footnote-ref-2)
3. Incorrectly cited in EO 202. Should be NYCRR 405.9 (h)(7) [↑](#footnote-ref-3)
4. Extended under Executive Order 202.72 [↑](#footnote-ref-4)
5. Extended under Executive Order 202.72 [↑](#footnote-ref-5)
6. Executive Order 202 waived Part 405 “to the extent necessary to maintain the public health with respect to treatment or containment of individuals with or suspected to have COVID-19.” Executive Order 202.1 “amended” Executive Order 202, and, in doing so, did not restate Executive Order 202’s broad waiver of Part 405. Executive Order 202.5 then waived Part 405 “to the extent necessary to adopt existing policies and procedures in a general hospital at a new, temporary facility created for the purpose of treating patients during the COVID-19 outbreak.” Executive Order 202.10 also waived Part 405 “[t]o the extent necessary to permit and require general hospitals to take all measures necessary to increase the number of beds available to patients, in accordance with the directives set forth in Executive Order 202.10.” Other Executive Orders have waived specific sections within Part 405. Executive Order 202.28 reinstates Part 405, as well as Sections 405.10 and 405.9 (although Section 405.9 continues to be suspended to the limited extent necessary to allow a practitioner to practice in a facility where he or she is not credentialed or privileged). On one hand, it is possible that Governor Cuomo intended to reinstate all of Part 405, with the exception of the continued, partial suspension of Section 405.9. On the other hand, it is possible that the Governor intended only to nullify his broad waivers of Part 405 but otherwise to continue the suspension of specific sections of Part 405 previously waived. [↑](#footnote-ref-6)
7. Executive Order 202.28 reinstates 14 N.Y.C.R.R. Section 636-1, which was separately suspended, to the extent necessary to temporarily deviate from an individual’s service plan and to the extent necessary to temporarily relocate individuals, under Executive Order 202.5. It is possible that the Governor intended also to reinstate 14 NYCRR 636-1.4, but it is also possible he intended just to nullify the waiver of Section 636-1 and not the waiver of 636-1.4. [↑](#footnote-ref-7)
8. Extended under Executive Order 202.72 [↑](#footnote-ref-8)
9. Extended under Executive Order 202.72 [↑](#footnote-ref-9)
10. Extended under Executive Order 202.72 [↑](#footnote-ref-10)
11. Extended under Executive Order 202.72 [↑](#footnote-ref-11)
12. Extended under Executive Order 202.55 [↑](#footnote-ref-12)
13. Extended under Executive Order 202.72 [↑](#footnote-ref-13)
14. Extended under Executive Order 202.72 [↑](#footnote-ref-14)
15. Extended under Executive Order 202.72 [↑](#footnote-ref-15)
16. Extended under Executive Order 202.37 [↑](#footnote-ref-16)
17. Extended under Executive Order 202.72 [↑](#footnote-ref-17)
18. Extended under Executive Order 202.76 [↑](#footnote-ref-18)
19. Extended under Executive Order 202.72 [↑](#footnote-ref-19)
20. Extended under Executive Order 202.75 [↑](#footnote-ref-20)
21. Extended under Executive Order 202.75 [↑](#footnote-ref-21)
22. Extended under Executive Order 202.68 [↑](#footnote-ref-22)
23. Extended under Executive Order 202.75 [↑](#footnote-ref-23)