

NEW YORK EXECUTIVE ORDER LIFTS REGULATORY OBSTACLES TO FIGHTING CORONAVIRUS

Hodgson Russ Healthcare Alert
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On March 18, 2020, New York Governor Cuomo issued Executive Order No. 202.5, entitled “Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.” This wide-ranging emergency order temporarily suspends or modifies, through April 17, 2020, a host of statutes and regulations in an effort to lift regulatory obstacles and free up resources to address the Coronavirus emergency.

For healthcare providers – including physicians, practitioners, and Article 28- and 36-licensed entities – the key changes target the following statutes and regulations:

- provisions of the Education Law and regulations to allow physicians, physician assistants, nurse practitioners, registered nurses, and licensed practical nurses who are licensed and in good standing in any state, and physicians licensed but not registered in New York, to practice in New York without civil or criminal penalty related to the lack of licensure;
- provisions of NYS Department of Health regulations to allow for:
 - the transfer of patients affected by the disaster emergency to Article 28 facilities as authorized by the Commissioner of Health;
 - nursing homes to conduct comprehensive assessments and physician approvals for admission “as soon as practicable” for residents temporarily evacuated to nursing homes, or to forego them for residents returned to the evacuated facilities, to allow for the speedy transfer of affected patients;
 - certified home health agencies, long-term home health care programs, AIDS home care programs, and licensed home care services agencies serving individuals affected by the emergency to conduct in-home supervision of home health and personal care aides “as soon as practicable” after the initial service visit, or to use indirect means, including telephone and video communications, to meet in-person and in-home supervision requirements;
 - certified home health agencies, long-term home health care programs, and AIDS home care programs serving affected individuals to make initial patient visits within 48 hours, rather than 24 hours, of the receipt and acceptance of a community referral or return home from an institutional placement;

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- an extension of the time in which home care services entities must submit information to the Home Care Worker Registry; and
- provisions of the Public Health Law and Health Department regulations relating to privileging and credentialing to allow staff with the necessary professional competency and who are privileged and credentialed in New York or in any other state to practice in a healthcare facility in New York.

In addition, the Executive Order temporarily lifts:

- regulatory standards applicable to hospitals to facilitate the construction of a temporary facility to treat patients during the COVID-19 outbreak; and
- any code related to construction, energy conservation, or other building code, and all state and local laws, ordinances, and regulations relating to their administration and enforcement, subject to approval by the Commissioner of Health or the Commissioner of the Office for Persons with Developmental Disabilities, as applicable, to the extent necessary to allow temporary changes to physical plant, bed capacities, and services, the construction of temporary hospital locations and extensions, the increase of certified capacity limits, and the establishment of temporary hospital locations and extensions.

Further, the Executive Order temporarily suspends provisions of the Social Services Law and Mental Hygiene Law, and their implementing regulations, to the extent necessary to cope with the emergency, by allowing for temporary deviations from an individual's service plan, temporary relocations of individuals to maintain their health and safety, restrictions of visitors to certified facilities, restrictions on community outings, and abbreviated training of direct support professionals.

The intent of these targeted actions is to enhance New York's surge capacity by increasing the availability of qualified personnel, temporarily relaxing administrative burdens, facilitating the creation of creating temporary facilities, and enhancing the system's flexibility to cope with the COVID-19 emergency.

CONTACT US

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