

### **COVID EOs and Directives in Aftermath of State PHE**

The following is a preliminary list of Executive Orders (EOs) and other directives Long-Term Care (LTC) and Senior Services providers that have been rescinded as a result of the termination of the State Public Health Emergency (EO citations are to the original EO):

#### **Testing, Telehealth, Infection Prevention:**

- **EO 202** - Permit unlicensed individuals who have undergone appropriate training to collect swab specimens for purposes of COVID-19 diagnostic testing; and permit non-nursing staff to perform tasks under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse.
- **EO 202.1** - Any guidance issued by NYS DOH related to prevention and infection control at nursing homes and adult care facilities, including but not limited to guidance on visitation shall be effective immediately and shall supersede and prior conflicting guidance by any entity.
- **EO 202.1** - Waive requirements for in-person initial assessment, limitations on who can deliver tele-mental health services, requirements for who must be present while tele-mental health services are delivered, and a recipient's right to refuse tele-mental health services.
- **EO 202.5** - Permit, when necessary, CHHAs, LHCSA, LTHHCP AIDS programs to conduct in home supervision of HHAs/PCAs as soon as practicable after initial visit, permit supervision to be conducted by telephone or video.
- **EO 202.5** - Permits initial patient visits for certified home health agencies, long term home health care programs and AIDS home care programs serving individuals affected by the disaster emergency to be made within 48 hours of receipt and acceptance of a community referral or return home from institutional placement.
- **EO 202.18** - Flexibilities regarding assessments/reassessments, care plans, eligibility for those needing home delivered meals or EISEP services. (9 NYCRR 6654,)
- **EO 202.18/202.19** - Any skilled nursing facility, nursing home, or adult care facility licensed and regulated by the Commissioner of Health shall notify family members or next of kin if any resident tests positive for COVID-19, or if any resident suffers a COVID-19 related death, within 24 hours of such positive test result or death.
- **EO 202.23** - Authorizes Commissioner of Health to suspend or revoke the operating certificate of NH or ACF if it is determined that such facility has not adhered to any regulations or directives, and if determined to not be in compliance 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.
- **202.24** - Permits licensed pharmacists to be designated as a qualified healthcare professional for the purpose of directing a limited service laboratory, pursuant to PHL 579(3) 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. Subdivision 571(6) and subdivision 579(3) of the Public Health Law.

- **EO 202.30** –Requires NHs and ACFs to test all personnel for COVID-19 and to certify compliance.
- **EO 202.30** - 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 202.72** - Continues requirement for clinical labs to report COVID-19 and influenza test results to the Department within 24 hours, provided the Department may require more frequent reporting if deemed necessary.
- **EO 202.89** - Requires all influenza and COVID-19 vaccinations for any individual (child or adult) to be reported to NYSIS or CIR, as applicable, within 24 hours of administration of such vaccine. Executive Order 202.82, Section 2168 of the Public Health Law, and section 66-1.2 of Title 10 of the NYCRR
- **EO 202.101**- Prohibits Article 28 general hospital from discharging a patient to a nursing home, adult care facility, or long-term care facility without first offering to medically eligible patients and, if the patient consents, providing a COVID-19 vaccine to such patient.
- **EO 205** – Authorizes travel advisories and for the Commissioner to issue additional protocols for essential workers, or for other extraordinary circumstances, when a quarantine is not possible, provided such measures continue to safeguard the public health.
- **EO 202.32** - Allows clinical laboratories to examine specimens for COVID-19 testing, from personnel of nursing homes and adult care facilities without a prescription or order from an authorized ordering source, and to report the results of such tests to the appropriate nursing home or adult care facility; provided that, to ensure appropriate follow-up with patients who test positive for COVID-19, the facility administrator shall contact the local health department to ensure all facility personnel who test positive are provided appropriate clinical guidance as well as appropriate isolation orders. (Subdivision (1) of section 576-b of the Public Health Law and section 58-1.7 and 58-1.8 of Title 10 of the NYCRR, E.O. 202.30. See also **EO 202.44**)
- **EO 202.69** --Permits physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by executive order to collect throat or nasopharyngeal swab specimens [and saliva specimens] from individuals suspected of suffering from a COVID-19 infection, for purposes of testing. (Executive Order 202, Education Law 6527(6), 6909(4), 8 NYCRR 64.7).

### **Professional Workforce Flexibilities:**

- **EO 202.5/202.10/202.18** - Allows certain professionals licensed and in current good standing in any state in the United States or not registered in NY/certified/licensed in Canada to practice in New York State without civil or criminal penalty related to lack of licensure:
  - physicians (originally 202.5)
  - physician assistants (originally 202.5)
  - respiratory therapists (202.10)
  - social workers (202.18)
  - Physical therapists (202.18)
- **EO 202.10** - Permits a physician 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
- **EO 202.11/201.18** Permits graduates of certain programs to be employed for 180 days immediately following graduation under certain conditions:
  - RNs (202.11)
  - LPNs (202.11)
  - NPs (202.18)

### **Other Issues Not Addressed by EOs but Included in Guidance Issued by DOH**

- **Social Interaction and Visitation Restrictions; Personal Caregiving Visitation**
- **Salon services in ACFs/NHs.**
- **UAS Assessments via Telehealth**
- **Adult Day Health Care Programs Reopening and Transportation Guidance**
- **ACF Operations:**
  - Annual medical evaluations for employees and residents
  - UAS conducted remotely/virtually
  - Periodic reassessments
- **Return to Work Guidance for Healthcare Personnel**
- **Nursing Home, Hospice, and Home Care 1135 Waivers**
  - In-Service Requirements for Personal Care Aides and Home Health Aides
  - Temporary nurse aide waiver
- **HERDS Reports**
- **Telehealth**