No. 202.44

EXECUTIVE ORDER

**CONTINUING TEMPORARY SUSPENSION AND MODIFICATION OF LAWS RELATING TO THE DISASTER EMERGENCY**

**WHEREAS**, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

**WHEREAS**, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

**NOW, THEREFORE**, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, do hereby suspend or temporarily modify the following provisions of law of law until July 21, 2020:

- Real Property Tax Law Article 5, to allow tentative and final real property tax assessment rolls to be filed up to 30 days late; allows hearing assessment complaints for tax assessing units to be at a date 21 days after the filing of the tentative roll; allows notice of the tentative roll filing to be published online and to suspend in-person inspection of tentative rolls; and to allow Boards of Assessment Review to hear complaints remotely.
- Real Property Tax Law § 1212, to allow the commissioner of Dept. of Tax and Finance to certify final state equalization rates, class ratios, and class equalization rates no later than 10 days before the last date sent by law.
- Education Law § 680, to allow licensed pharmacists to order and administer COVID tests or tests for its antibodies.
- Public Health Law § 571(6), to allow licensed pharmacists to be designated as qualified healthcare professionals so they can direct a limited service laboratory to test patients for COVID or its antibodies.
- 10 NYCRR 401.3(a),(e), 709, 710, 710.1 or any other applicable regulation, to allow for DOH to approve and certify dedicated birthing sites operated by licensed birthing hospitals and centers.
- Article 6 and 15 of the Election Law in relation to conducting any village election to be held September 15, 2020 pursuant to this Executive Order, and article 6 of the Town Law are temporarily suspended and otherwise modified as follows:
    - Any village or town election previously scheduled to be held in March, April, May, or June will be held on September 15, 2020. For any village or town election scheduled to be held on September 15, 2020 as directed by this Executive Order, all party nominations shall be made by party caucus, which may be conducted remotely as set forth by the chair of such party, and which shall be held not later than August 20, 2020, and provided that a certificate of nomination from such caucus and any certificates of declination or acceptance shall be filed not later than August 22, 2020, and provided that once a certificate of declination is submitted, no substitutions shall be permitted.
    - All independent nominations for a village or town election previously scheduled prior to September 2020, now to be held on September 15, 2020, shall be postponed until such time as NY on Pause is suspended, subject to a process determined by a future Executive Order.

- Any village or town election postponed by Executive Order originally scheduled for a date in March, April, May or June of 2020 for which the ballot was fully determined at the time of this Executive Order shall proceed with the same ballot as would have been used at such prior election, and if such ballots were already printed, such ballots may be used at the September 15, 2020 election despite containing thereon the original date of the election.
- Any provision of the election law or village law otherwise applicable to the manner of conducting such an election in March, April, May or June, shall apply to the date of the September 15, 2020 election.
- Village or town officials elected at a rescheduled election held on September 15, 2020, shall assume office as soon as the statement of canvass is filed with the village clerk pursuant to section 15-126 of the Election Law or certified by the board of election, and the term of office of such officers shall end as if they had been elected at the time of the originally scheduled election.
- Any town or village election previously postponed by Executive Order for which ballot access was not completed at the time of such suspension shall be conducted solely in accordance with the ballot access provisions applicable to the September 15, 2020, election.

- Election Law § 9-209, to permit absentee ballots submitted by a voter who requested them for a canceled and rescheduled election to be cast and canvassed unless the voter appears to vote at the rescheduled election or requests another ballot.
- Election Law §8-410, to require boards of election of any election held before July 1, 2020 to maintain a voting system that is accessible for voters who want to mark their ballots privately and independently; this must be on their website so people know of the service,
- Election Law § 16-108, to permit any Justice of the Supreme Court to hear election matters on election day and determine them by telephone or video conference.
- Election Law § 8-407, to allow that inspectors of boards of elections shall not attend or visit facilities to provide absentee ballots physically, and will send them by mail or by personal delivery.
- Election Law § 5-204, to eliminate the need for local or in person registration at poll sites in 2020.
- Public Health Law § 576-b(1) and 10 NYCRR 58-1.7, 58-1.9 to allow clinical labs to accept and examine specimens for COVID-19 testing from nursing home and adult care facilities personnel without a prescription or order and to report tests to the appropriate staff at the facilities; and to require the facilities to report positives to the local department of health for treatment and isolation orders
- Education Law § 6530, to the extent necessary to allow physicians to order COVID-19 tests for self-collection without having a physician-patient relationship.

**IN ADDITION**, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives for the period from the date of this Executive Order through July 21, 2020:

- The Commissioner of Health is authorized to suspend or revoke the operating certificate of any skilled nursing facility or adult care facility if it is determined that such facility has not adhered to any regulations or directives issued by the Commissioner of Health, 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.
- The state assembly and state senate special elections, which are otherwise scheduled to be held on June 23, 2020 are hereby cancelled and such offices shall be filled at the general election. The special election to be held for the office of Queens Borough President is hereby cancelled, and such office shall be filled at the general election.
- The special election to be held for the office of City Council in the 37th district is hereby cancelled, and such office shall be filled at the general election.
- The directive related to support persons for birthing patients contained in Executive Order 202.13 and 202.12 is hereby modified 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, 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.

- 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 canceling 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 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
- Any district or special district, including, but not limited to fire, library, sewer, or water, that conducts an election and/or budget vote shall be rescheduled to September 15, 2020 and collection of signatures for nominating petitions is hereby suspended until further notice, subject to a process determined by a future Executive Order; provided however, a library district may conduct an election on June 9, 2020 pursuant to this Executive Order if such election is managed by a school district.
- Circulation, filing, and collection of any independent nominating petition pursuant to section 6-138 of the Election Law for any office that would otherwise be circulated or filed pursuant to the Election Law or for any special district election, as provided for in Executive Order 202.13, continue to be postponed until further notice and shall be subject to a future Executive Order.
- Any village or town election that was postponed in March of 2020, or scheduled to be held on June 16, 2020, or any time prior to September 15, 2020, is hereby rescheduled for September 15, 2020
- Executive Order 202.23 is modified to clarify that any voter that is in active and/or inactive status and is eligible to vote in a primary or special election to be held on June 23, 2020 who requests an absentee ballot via telephone for the June 23 special election or primary election, shall be sent an absentee ballot with a postage paid return envelope; provided however each voter shall not be sent more than one ballot, and shall not be required to complete an application either prior to or simultaneously to receiving the ballot. Further, the board of elections receiving the telephone request shall maintain a record of such telephone request for an absentee ballot, and may complete the absentee ballot application as such record on behalf of the voter requesting the absentee ballot, provided that no ballot shall be deemed invalid for lack of a complete absentee ballot application for any reason
- 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.

- The authority of the Commissioner of Taxation and Finance to abate late filing and payment penalties pursuant to section 1145 of the Tax Law is hereby expanded to authorize abatement of interest and penalties for a period of up to 100 days for taxpayers who were required to file returns and remit sales and use taxes by March 20, 2020, for the sales tax quarterly period that ended February 29, 2020.
- Any licensee or franchisee of a racetrack in the State is hereby permitted to operate such racetrack as of June 1, 2020, provided such racetrack does not permit any visitor or fan into the facility, and allows on site only essential personnel; and provided further that such licensee or franchisee of a racetrack, and all essential personnel adhere to any directive or guidance issued by the Department of Health and/or by the Gaming Commission.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-first day of June in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor