State of New York

Executive Chamber

No. 202.25

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 be 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 to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through May 29, 2020 the following:

- Subdivisions (a) and (e) of section 401.3 and section 710.1 of Title 10 of the NYCRR, and Part 709 and 710 of Title of the NYCRR, and any other applicable regulation, 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;

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 hereby issue the following directives for the period from the date of this Executive Order through May 29, 2020:

- 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.

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

BY THE GOVERNOR

Secretary to the Governor