State of New York

Executive Chamber

No. 202.30

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 June 9, 2020 the following:

- Clause (b) of subparagraph (v) of paragraph (1) of subdivision (c) of section 415.26 , paragraph (8) of subdivision (a) of section 487.9 and paragraph (5) of subdivision (a) of section 488.9 of Title 18 of the NYCRR; and subdivision (7) of section 4656 of the Public Health Law are modified 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 p.m. on Wednesday, May 13, 2020. Any positive test result shall be reported to the Department of Health by 5:00 p.m. of the day following receipt of such test result, in a manner determined by the Commissioner of Health. Nothing herein 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.

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 June 9, 2020:

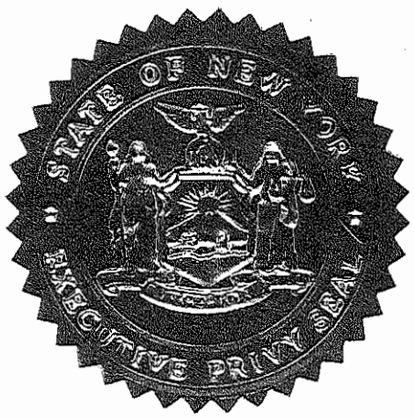
- No later than May 15, 2020, both the operator and the administrator of all nursing homes and adult care facilities must provide to the Department of Health a certification of compliance with this Executive Order and directives of the Commissioner of Health, and all other applicable Executive Orders and directives of the Commissioner of Health.

    - The Commissioner of Health is authorized to suspend or revoke the operating certificate of any nursing home or adult care facility if it is determined that such facility has not complied with this Executive Order, or 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. Any false statement in the attestation shall be punishable under the provisions of Penal Code 210.45.

    - Any nursing home or adult care facility which does not comply with this Executive Order shall be subject to a penalty for non-compliance of $2,000 per violation per day, as if it were a violation of section 12 of the public health law, and any subsequent violation shall be punishable as if it is a violation of section 12-b of the public health law, with a penalty of $10,000 per violation per day.

    - Any personnel of a nursing home or adult care facility who refuse to be tested for COVID-19 pursuant to a plan submitted to the Department of Health shall be considered to have outdated or incomplete health assessments and shall therefore be prohibited from providing services to such nursing home or adult care facility until such testing is performed.

- 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.



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

BY THE GOVERNOR

Secretary to the Governor