

State of New York

Executive Chamber

No. 202.11

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 April 26, 2020 the following:

- Sections 16.03 and 16.05 of the Mental Hygiene Law and Part 619 of Title 14 of the NYCRR to the extent that they limit the provision of certain services to certified settings provided, however, that use of such settings shall require the approval of the commissioner of OPWDD;

- Section 633.16 of Title 14 of the NYCRR to the extent necessary to permit abbreviated training and/or extension of recertification deadlines for direct support professionals employed in programs and facilities certified pursuant to Article 16 of the Mental Hygiene Law that are experiencing staff shortages;

- Sections 131-u and 459(b) of the Social Services Law and Sections 408.6, 408.7 and 408.8 Of Title 18 of the NYCRR insofar as the statute and regulations limit the duration and amount of reimbursement for residential programs for victims of domestic violence to the per diem rate established by the Office of Children and Family Services;

- Section 6808(1) of the Education Law and any associated regulations, to the extent necessary to temporarily permit registered resident pharmacies and registered resident outsourcing facilities to compound certain alcohol-based hand sanitizer products, consistent with the Food and Drug Administration's Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (March 2002);

- Sections 6802, 6808, and 6841 of the Education Law and Parts 29.7 (10) and 63.6 of Title 8 of the NYCRR, to the extent necessary to permit pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to prevent any Personal Health Information from being compromised;

- Subdivision 5 of Section 6907 of the Education Law and associated regulation, to the extent necessary to permit graduates of registered professional nurse and licensed practical nurse licensure qualifying education programs registered by the State Education Department to be employed to practice nursing under the supervision of a registered professional nurse and with the endorsement of the employing hospital or nursing home for 180 days immediately following graduation;

- Subdivision 11 of section 17 of the Public Officers Law, and any associated regulations, to the extent necessary to ensure that physicians assisting in the State's response to COVID-19 in a facility owned or leased by SUNY and operated by SUNY are not excluded from the provisions of section 17 of the Public Officers Law for the medical services provided as part of the State's response to COVID-19;

- Paragraph a of subdivision 1 of section 17 of the Public Officers Law, and any associated regulations, to the extent that SUNY has designated a state volunteer program under this paragraph for SUNY Upstate Hospital, SUNY Stony Brook University Hospital, and University Hospital SUNY Downstate, that is comprised of both compensated and uncompensated volunteers;

- Subdivision (3) of section 6305 of the Education Law and subdivision (c) of section 602.12 of Title 8 of the NYCRR, and any other applicable state or local law, rule, or regulation, to the extent necessary to suspend the thirty-day requirement for submission of certificates of residence to community colleges in New York State, and to allow for electronic mail and mail by post applications for certificates of residence in every county for the duration of the COVID-19 emergency;

- Sections 2800(1)(a) and (2)(a); 2801(1) and (2); 2802(1) and (2); 2824(2) of the Public Authorities Law, to the extent consistent and necessary to allow the director of the Authorities Budget Office to disregard such deadlines due to a failure by a state or local authority to meet the requirements proscribed within these sections during the period when a properly executed declaration of a state of emergency has been issued;

- Section 103(2) of the General Municipal Law, Section 144(1) of the State Finance Law, Section 376(8)(a) of the Education Law, and Section 359(1) of the Public Authorities Law to the extent necessary to allow the non-public opening of bids; provided, however, that, where practical, public entities shall record or live stream bid openings so that the public has the opportunity to view such bid openings;

- To allow individuals and businesses licensed by the Department of State to extend the expiration date of their license:
    - Articles 6-D, 7, 7-A, 8-B, 8-C, 27, 28, 35-B, 35-C, 37-A, 39-E, 39-G, 41, and Section 399-pp of the General Business Law are amended, as necessary, to extend the time to renew a license to the 30th day following the expiration of this Executive Order;
    - Articles 6-F, 6-H, and Sections 130-131 of the New York Executive Law are amended, as necessary, to extend the time to renew a license to the 30th day following the expiration of this Executive Order;
    - Articles 12-A, 12-B, and 12-C of the Real Property Law are amended, as necessary, to extend the time to renew a license to the 30th day following the expiration of this Executive Order; and
    - Article 25 of the New York Arts and Cultural Affairs Law is amended, as necessary, to extend the time to renew a license to the 30th day following the expiration of this Executive Order;

- Section 1210.13 of Title 19 of the NYCRR, to the extent that continuing education requirements cannot be met due to the cancellation or postponement of courses during this COVID-19 emergency, to allow manufacturers, retailers, installers, and mechanics currently certified by the Department of State to continue to renew their existing certifications;

- Title 16, the Urban Development Corporation Act, to the extent a public hearing is required to effectuate a proposed project, provided that the Urban Development Corporation provides an alternative opportunity for the public to comment on proposed project and publishes notice of that opportunity consistent with notice requirements in the Act;

- Section 94 of the Executive Law, to the extent that certain trainings are required by Section 94 (10)(a-c), failure to meet such deadlines will not be held to be a violation of the Executive Law provided such trainings are complete in 30 days;

- Section 352-e(2) of the General Business Law to the extent that it requires response to co-op/condominium offering plans in 30 days, provided, however, the timeframe for such response may be extended up to 30 days;

- Sections 806, 808, 809, and 814 of the Executive Law, Section 24-0801 of the Environmental Conservation Law, and associated regulations to the extent necessary to suspend the statutory and regulatory time periods required for the Adirondack Park Agency to respond to requests for variances, permit modifications and otherwise process permit requests;

- Sections 6951, 6952, 6953 and 6955 of the Education Law, to the extent necessary to the extent necessary to allow midwives licensed and in current good standing in any state in the United States, or in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure;

- Section 140(3) of the Transportation Law to the extent necessary to toll for a 30-day period corresponding to the duration of this Executive Order the requirement of a vehicle inspection within a period of six months last preceding, only for those vehicles voluntarily placed out of service due to the COVID-19 outbreak;

- Section 212 of the Retirement and Social Security Law, for the purpose of disregarding any income earned during the period of the emergency from the earnings limitation calculated under such section;

- Subdivision (a) of Section 301 of the Vehicle and Traffic Law, to the extent that it require annual safety inspections and at least biennial emissions inspections, so that vehicles may continue to be lawfully operated after the expiration of inspection certificates that were valid as of the date of this order but that expire hereafter; and

- Section 307(1) of the State Technology Law to the extent necessary to allow an electronic signature to be used by a person in lieu of a signature affixed by hand in executing documents and forms authorizing or accepting funeral services.

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 April 26, 2020:

- The directive contained in Executive Order 202.4 related to the closure of schools statewide shall hereafter be modified to provide that all schools shall remain closed until April 15, 2020, at which time the continued closure shall be re-evaluated. No school shall be subject to a diminution in school aid due to failure to meet the 180 day in session requirement as a result of the COVID-19 outbreak, provided their closure does not extend beyond the term set forth herein. School districts must continue plans for alternative instructional options, distribution and availability of meals, and child care, with an emphasis on serving children of essential workers, and continue to first use any vacation or snow days remaining.

- The directive contained in Executive Order 202.10 related to restrictions on dispensing hydroxychloroquine or chloroquine for prophylactic purposes is amended as follows: No pharmacist shall dispense hydroxychloroquine or chloroquine except when written: as prescribed for an FDA-approved indication; for an indication supported by one or more citations included or approved for inclusion in the compendia specified in 42 U.S.C. 1396r–8(g)(1)(B)(i); for patients in inpatient settings and acute settings; for residents in a subacute part of a skilled nursing facility; or as part of an study approved by an Institutional Review Board. Any person authorized to prescribe such medications shall denote on the prescription the condition for which the prescription has been issued.

- During the period when an Executive Order limiting operation of a type of facility or limiting the number of persons who may occupy any space is in effect, any operation of such a facility or occupancy of any such space by more than the number of persons allowed by said Executive Order shall be deemed to be a violation of law and in particular, but not by way of limitation, shall be deemed to be a violation of the Uniform Code or other local building code in effect in the jurisdiction in which the facility or space is located. In the event of any such violation, any state, county, or local police officer authorized to enforce laws within the jurisdiction in which the space or facility is located is authorized to remove persons from such space or facility. In addition, in the event of such violation, any state, county, or local code enforcement official or fire marshal authorized to enforce the Uniform Code or other local building code within the jurisdiction in which the facility or space is located is authorized to issue an appearance ticket, a Notice of Violation, an Order to Remedy such violation, which shall require immediate compliance, and/or a Do Not Occupy Order to any owner, operator, or occupant of any such facility or space. Nothing in this provision shall limit the authority of any governmental unit or agency to take such other and/or additional enforcement actions to the extent necessary to ensure compliance with such occupancy-related directives or facility operation-related directives.

- Any guidance issued by the New York State Department of Health related to prevention and infection control of COVID-19 shall be effective immediately and shall supersede any prior conflicting guidance issued by the New York State Department of Health and any guidance issued by any local board of health, any local department of health, or any other political subdivision of the State related to the same subject.



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

BY THE GOVERNOR

Secretary to the Governor