

The COVID-19 Legislative Dashboard

On June 23, 2021, Governor Andrew M. Cuomo announced that New York state will end the COVID-19 Disaster Emergency declared over fifteen months earlier on March 7, 2020. **Effective June 25, 2021, the state of emergency in New York and all related Executive Orders have expired.** As a result, important temporary changes of New York state laws that impacted healthcare providers throughout the COVID-19 pandemic have been rescinded. As New York State continues its emergence from the pandemic, it is important for healthcare providers to stay up to date on the status of temporary statutory and regulatory changes that went into effect during the COVID-19 crisis. It is anticipated that New York state will continue to issue guidance to healthcare providers based upon changing conditions. In addition, the Declaration of the Secretary of the United States Department of Health and Human Services issued pursuant to the federal Public Readiness and Emergency Preparedness (PREP) Act still remains in effect. These important changes include **waivers, modifications, exceptions, and immunities from liability.** Below is a **Dashboard** that provides useful information on:

- The start and expiration dates of the state and federal statutory/regulatory changes;
- The source and title of the statutory/regulatory change;
- An explanation of the statutory/regulatory change.

This Dashboard will be updated periodically to reflect ongoing changes and additional information.

MLMIC policyholders may contact the law firm of **Fager Amsler Keller & Schoppmann, LLP** as a free value-added service at **1-855-FAKS-LAW** for current information on these statutes/regulations as well as other important COVID-19 information.

Important Dates:

- **January 31, 2020** the Secretary of the Department of Health and Human Services, Alex M. Azar, II declared a Public Health Emergency for the entire United States to aid in response to the 2019 Novel Coronavirus. The [declaration](#) was retroactive to January 27, 2020 and will remain in effect for the duration of the crisis.
- On **March 7, 2020**, Governor Andrew Cuomo issued [Executive Order 202](#) (periodically updated) which declared a State Disaster Emergency for the entire state of New York. **This declaration remained [in effect until June 24, 2021.](#)**
- Effective **June 25, 2021** Governor Andrew Cuomo issued [Executive Order 210](#) which ended the State Disaster Emergency and rescinded Executive Order 202 and its subsequent extensions up to and including Executive Order 202.111.

The COVID-19 Legislative Dashboard

Topic	Effective Dates	Temporary Change
<p><u>NYS: Administration of COVID-19 and Influenza Vaccine</u></p> <p>Source: Executive Order 202.82</p> <p>(Extended by Executive Order 202.90) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109) (Rescinded by Executive Order 210)</p> <p>Other Links: https://www.governor.ny.gov/news/no-20282-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency</p>	<p>December 13, 2020 – June 24, 2021 – Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Authorizes non-patient specific regimens to be prescribed, ordered to and executed by licensed physicians and certified nurse practitioners to: nurses, physician assistants, special assistants, pharmacists or others upon completion training deemed appropriate by DOH to: <ol style="list-style-type: none"> 1) collect throat, nasal, or nasopharyngeal swab specimens for testing; 2) collect blood specimens for the diagnosis of acute or past COVID-19; 3) administer vaccinations against influenza or COVID-19; and 4) where applicable and to extent necessary, perform tasks under the supervision of a nurse to provide care, within limits of scope of practice of a nurse, for individuals diagnosed or suspected of suffering from COVID-19 or influenza infection. • Permit non-patient specific regimens to be prescribed, ordered to and executed by registered professional nurses for the administration of COVID-19 vaccine; • Authorizes the administration of COVID-19 and influenza vaccines at Points of Dispensing (POD) sites overseen or approved by DOH and operated under the supervision of physicians,

The COVID-19 Legislative Dashboard

NYS: Administration of COVID-19 and Influenza Vaccine

(Continued)

physicians' assistants, certified nurse practitioners by the following persons:

- **-Licensed Practical Nurses**
- **-Midwives without certificate to administer immunizing agents**
- **-Podiatrists**
- **-Emergency Medical Technicians**
 - **Advanced EMTs**
- **-EMT-Paramedics**
- **-Dentists**
- **-Dental Hygienists with an analgesia certificate**

-These persons **must have** received training in:

- 1) Infection control practices;
- 2) Use of PPE sufficient for such tasks; and
- 3) A current certificate in basic CPR

- To extent necessary and subject to certification by the Commissioners of Health and Education, permit licensed pharmacists to administer COVID-19 vaccine less than 90 days after approval by FDA.

- To the extent necessary:

- 1) Suspends the requirement of persons 19 years or older must consent to their immunization information being reported to NYS Immunization Information Registry (NYSIIS) or City Immunization Registry (CIR);

The COVID-19 Legislative Dashboard

<p><u>NYS: Administration of COVID-19 and Influenza Vaccine</u> (Continued)</p>		<p>2) Require all influenza and COVID-19 vaccinations for any individual (child or adult) to be reported to NYSIIS or CIR within 24 hours of administration.</p> <ul style="list-style-type: none"> • Suspends recordkeeping requirements as it pertains to vaccinations against influenza and COVID-19 provided the health professional must comply with all recordkeeping requirements directed by DOH • Modifies Insurance Law to cover administration of vaccine and necessary visit
<p><u>NYS: Administration of COVID-19 Vaccine to Priority Groups & Penalties for Fraudulent Administration</u></p> <p>Source: Executive Order 202.86 (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103)</p> <p><u>(Ended by Senate and Assembly Concurrent Resolution 215)</u></p> <p>Other Links: NYS DOH Vaccine Information for Providers</p>	<p>December 28, 2020 – April 28, 2021</p> <p>Terminated by NYS Senate and Assembly Concurrent Resolution 215 as priority grouping and penalties are no longer required due to rates of vaccination and availability of vaccination appointments.</p>	<ul style="list-style-type: none"> • Healthcare providers shall require persons receiving the COVID-19 vaccine to provide an attestation that they are a member of a specific priority group determined by DOH to be eligible for the vaccine • Any healthcare provider who knowingly administers the vaccine to an individual who is not certified as a member of a priority group may be subject to civil penalties up to \$1 million per dose administered and/or result in the revocation of state issued license.
<p><u>Federal: Expanded Access to COVID-19 Countermeasures Via Telehealth</u></p> <p>Source: HHS 4th Amendment to Declaration under PREP Act - 12/3/20</p>	<p>December 3, 2020 – until end of COVID-19 Emergency Declaration</p>	<ul style="list-style-type: none"> • Authorizes healthcare personnel using telehealth to order or administer covered countermeasures (diagnostic tests, etc.) for patients in a state other than where the professional is licensed • Preempts any state law that prohibits a person from ordering

The COVID-19 Legislative Dashboard

		or administering countermeasures via telehealth
<p>Federal: Health Insurance Portability and Accountability Act HIPAA - Enforcement Discretion for Telehealth</p> <p>Source: HHS Office of Civil Rights Directive 3/17/20</p> <p>Regulation Impacted:</p> <p>45 CFR Parts 160 and 164</p>	<p>March 17, 2020 – until further notice from HHS</p>	<ul style="list-style-type: none"> • Waiver of penalties for HIPAA violations relating to telehealth • Applies to good faith use of basic applications – FaceTime, Zoom, Skype • Business Associate Agreement with platform not required
<p>Federal: Health Insurance Portability and Accountability Act HIPAA – Guidance on Contacting Former COVID-19 Patients about Blood and Plasma Donation</p> <p>Source: HHS Office of Civil Rights Notification 6/12/20</p>	<p>Provided as guidance and does not change status of the regulation</p>	<ul style="list-style-type: none"> • HIPAA permits covered entity health care providers to identify and contact patients who recovered from COVID-19 without their authorization to provide information about donating blood and plasma containing antibodies to help treat other patients • Permitted under HIPAA Privacy Rule as a population-based healthcare operations activity of the covered entity health care provider • Communication cannot constitute marketing (Covered entity must not receive direct or indirect payment from party whose service is being described in the communication)
<p>Federal: Health Insurance Portability and Accountability Act HIPAA – Enforcement Discretion of Privacy Rule</p> <p>Source: HHS Office of Civil Rights Directive 4/2/20</p> <p>Regulation Impacted:</p> <p>45 CFR Parts 160 and 164</p>	<p>April 2, 2020 – until further notice from HSS</p>	<ul style="list-style-type: none"> • HHS Office of Civil Rights will exercise enforcement discretion and will not impose penalties for violations of certain provisions of the HIPAA Privacy Rule against providers and business associates for use and disclosure of protected health information during COVID-19 public health emergency
<p>Federal: Liability Immunity for Countermeasures against COVID-19</p> <p>Source: DHHS Declaration 3/17/20</p>	<p>February 4, 2020-until further notice</p>	<ul style="list-style-type: none"> • The Secretary of the Department of Health and Human Services has declared, pursuant to the Public Health Service Act § 319F-

The COVID-19 Legislative Dashboard

<p>Federal: Liability Immunity for Countermeasures against COVID-19</p> <p>(Continued)</p>		<p>3 (42 U.S.C. § 247d-6d), that a covered person's activities related to medical countermeasures against COVID-19 will be immune from liability under Federal and State law.</p> <ul style="list-style-type: none"> • The liability protections provide that a covered person shall be immune from suit and liability under federal and state law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a covered countermeasure. • Authorized actions to: (1) prescribe, (2) administer, (3) deliver, (4) distribute, or (5) dispense the "Covered Countermeasures," absent willful misconduct. • Any antiviral, any other drug, any biologic, any diagnostic, any device, or any vaccine, used to treat, diagnose, cure, prevent, or mitigate COVID-19 or the transmission of SARS-CoV-2 or a virus mutating therefrom, or any device used in the administration of any such product.
<p><u>NYS: Emergency or Disaster Treatment Protection Act Related to COVID-19 (Limited Immunity from Liability)</u></p> <p><u>Source: Emergency or Disaster Treatment Protection Act</u></p> <p><u>Statute Enacted: NYS PHL Art. 30-D</u></p> <p align="center">(Amended August 3, 2020)</p> <p align="center">(Repealed April 6, 2021)</p>	<p align="center">March 7, 2020 –April 6, 2021</p> <p align="center">REPEALED</p>	<ul style="list-style-type: none"> • Applied to healthcare facility or health care professionals which included physicians, physician assistants, special assistants, nurse practitioners, registered nurses, licensed practical nurses, midwives, pharmacists, psychologists, respiratory therapists, clinical laboratory technicians, nursing attendants, certified nurse aides, first responders, emergency medical technicians.

The COVID-19 Legislative Dashboard

<p><u>NYS: Emergency or Disaster Treatment Protection Act Related to COVID-19 (Limited Immunity from Liability)</u></p> <p>(Continued)</p>		<ul style="list-style-type: none"> • Provided immunity from civil or criminal liability for injury or death • Applied to acts or omissions that occur in providing diagnosis or treatment for confirmed and suspected cases of COVID-19. • Did not apply to prevention or care for non-COVID-19 patients or hospitals arranging for health care services. • Did not apply to willful or intentional criminal misconduct, gross negligence, reckless misconduct or intentional infliction of harm. • Resource or staff shortages shall not be considered as willful or intentional criminal conduct, gross negligence or reckless misconduct. • Did not apply to Dentists.
<p><u>NYS: Supervision Requirements for Physician Extenders</u></p> <p>Source: Executive Order 202.10 (Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p><u>Statutes and Regulations Impacted:</u> NYS EDU Law §6542</p>	<p>March 23, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Applies to Physician Assistants, Special Assistants, Nurse Practitioners • To the extent necessary these extenders are permitted to provide medical services appropriate with their education training and experience without oversight from a physician or without a written practice agreement or collaborating relationship. • Extenders are provided immunity from civil or criminal penalty relative to lack of oversight by physician

The COVID-19 Legislative Dashboard

<p>NYS EDU Law §6902 NYS EDU Law §6545 NYS EDU Law §6527 10 NYCRR §94.2 8 NYCRR §64.5</p>		
<p><u>NYS: Hospital Medical Staff – Physician & Post Graduate Trainees</u></p> <p>Source: Executive Order 202.87 (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p>Regulation Impacted: 10 NYCRR §405.4(b)(6)</p>	<p>December 30, 2020- June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> To the extent necessary, regulation requiring hospitals to limit the amount of working hours for attending physicians and post-graduate trainees is suspended.
<p><u>NYS: Anesthesia Services – Expansion</u></p> <p>Source: Executive Order 202.10 (Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p><u>Regulations Impacted:</u></p> <p>10 NYCRR §405.13 10 NYCRR §755.4</p>	<p>March 23, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> To the extent necessary, permits advanced practice registered nurse with a doctorate or master’s degree specializing in anesthesia administration in a general hospital or ambulatory surgery center <u>without supervision of a physician.</u>

The COVID-19 Legislative Dashboard

<p><u>NYS: Recordkeeping - Relief of Medical Recordkeeping Requirements</u></p> <p>Source: Executive Order 202.83 (Re-enacted December 18, 2020) (Extended by Executive Order 202.90)</p> <p><u>NYS: Recordkeeping - Relief of Medical Recordkeeping Requirements</u></p> <p>(Continued)</p> <p>(Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p>Executive Order 202.10 (Effective for March 23, 2020-May 7, 2020)</p> <p><u>Statute and Regulations Impacted:</u></p> <p>NYS EDU Law §6530(32) 8 NYCRR §29.2 10 NYCRR §405.10 10 NYCRR §405.22</p>	<p>December 18, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p> <p>Previously in effect: March 23, 2020 – May 7, 2020</p>	<ul style="list-style-type: none"> • To the extent necessary to perform tasks relative to the COVID-19 crisis • When acting in good faith a health care provider is afforded absolute immunity from liability for any failure to comply with any recordkeeping requirements • Applies to healthcare provider, hospitals, laboratories and nursing facilities • Includes accurate documentation of: <ul style="list-style-type: none"> ▪ Evaluation and treatment of patients ▪ Diagnostic codes ▪ Billing records
<p><u>NYS: Licensure -State Reciprocity Expansion</u></p> <p>Source: Executive Order 202.5 (states) and Executive Order 202.18 (Canada) (Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72)</p>	<p>March 7, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • To the extent necessary, allows physicians, registered nurses, licensed practical nurse, nurse practitioners and physician assistants licensed and in good standing in any state in the United States or province or territory of Canada to practice in New York State without civil or criminal penalty for a lack of licensure.

The COVID-19 Legislative Dashboard

<p>(Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p><u>Statutes and Regulations Impacted:</u></p> <p>NYS EDU Law §6512-6516 NYS EDU Law §6905 NYS EDU Law §6909-6910 NYS EDU Law §6541 8 NYCRR Part 59.8 8 NYCRR Part 60 8 NYCRR Part 64</p>		
<p><u>NYS: Reporting of COVID-19 and Influenza Test Results</u></p> <p>Source: Executive Order 202.72</p> <p>(Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p><u>Modifies:</u> Executive Order 202.61</p> <p><u>Statute Impacted:</u> NYS PHL § 579</p>	<p>September 9, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Results of COVID-19 and Influenza tests are to be reported to DOH within 24 hours (prior Ex. Order required a report within 3 hours) • Applies to all clinical laboratories and licensed professionals authorized by the DOH to administer testing including: licensed physicians, osteopaths, dentists, midwives, nurse practitioners or optometrists who are authorized by the FDA or DOH to administer point of care COVID-19 test and registered with the DOH
<p><u>NYS: Personal Protective Equipment -Face Covering Requirements</u></p> <p>Source: Executive Order 202.16</p> <p>(Extended by Executive Order 202.29) (Extended by Executive Order 202.39) (Extended by Executive Order 202.49) (Extended by Executive Order 202.55)</p>	<p>April 15, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Essential businesses shall provide, and employees shall wear face coverings when in direct contact with customers or members of the general public

The COVID-19 Legislative Dashboard

<p>(Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p>		
<p>NYS: Rapid Transfer and Receipt of Patients by General Hospitals</p> <p>Source: Executive Order 202.79</p> <p>(Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p>Statute Impacted: 10 NYCRR §405.9(h)(7)</p>	<p>December 2, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Applies to General Hospital licensed pursuant to Article 28 of the PHL that are treating patients during the emergency • To the extent necessary, can rapidly transfer and receive patients to enable inter or intra-system patient load balancing as required by Commissioner of Health • Facilities must take all reasonable measures to protect health and safety of transfer patients
<p>NYS: Performance of Elective Surgeries and Procedures</p> <p>Source: Executive Order 202.44</p> <p>Modifies: Executive Order 202.25 & Executive Order 202.10</p> <p>(Extended by Executive Order 202.35) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.89) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96)</p>	<p>April 29, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Hospitals in all counties may resume non-essential surgeries and non-urgent procedures • Hospitals should carefully monitor bed capacity, hospitalization and other metrics such as rate of transmission • Hospitals are no longer required to report to DOH the types and numbers of procedures being performed. Hospitals should have mechanism to report this information to DOH if requested in the future

The COVID-19 Legislative Dashboard

<p>(Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p>		<ul style="list-style-type: none"> • Hospitals should have 7-day supply of PPE for surgeries and procedures. To prepare for future surge, hospitals should be working toward 90-day supply • Patient undergoing elective surgery or procedure must test negative for COVID-19 no more than 5 days before procedure
<p><u>NYS: Guidance for Resumption of Non-Essential Elective Surgeries and Non-Urgent Procedures</u></p> <p>Source: NYS DOH Guidance 5/12/21</p> <p>Supersedes: NYS DOH Directive of June 13, 2020 and Guidance of May 19, 2020</p>	<p style="background-color: yellow;">May 20, 2020 -</p>	<ul style="list-style-type: none"> • Applies to: Hospitals, Ambulatory Surgery Centers, Office Based Surgery Practices, and Diagnostic and Treatment Centers • Must implement a policy that addresses risk assessment including exposure, travel and COVID-19 symptoms. The policy must address when pre-elective procedure testing is to occur and define a negative COVID-19 test as polymerase chain reaction (PCR) or antigen test. • Pre-elective procedure testing is required five (5) days before elective surgeries and procedures for: <ul style="list-style-type: none"> ○ Patients not fully vaccinated ○ Unvaccinated patients; and ○ Patients for whom COVID-19 screening identified a risk • Pre-elective procedure testing is not required for patients who are fully vaccinated or have recovered from laboratory confirmed COVID-19 during previous three months. • Pre procedure testing for all asymptomatic patients is strongly encouraged for all patients

The COVID-19 Legislative Dashboard

		<p>irrespective of vaccination or recovery in regions with a positivity rate above 2%</p> <ul style="list-style-type: none"> • Facilities must continue to monitor <ul style="list-style-type: none"> ○ Bed capacity, hospitalization metrics in their region ○ PPE Supplies ○ Staffing ○ Infection Prevention and Control
<p>NYS: Telehealth – Expansion of Reimbursement for audio-only and video-only services</p> <p>Statute Amended: NYS PHL §2999-cc</p>	<p>June 17, 2020 -</p>	<ul style="list-style-type: none"> • Expands the type of telehealth services reimbursed by Medicaid and the Children’s Health Insurance Program (CHIP) to include <u>audio-only or video-only</u> services • By amending the statute, coverage will continue after the state of emergency • Contingent on federal financial participation
<p>NYS: Telehealth – Expansion of Services in General</p> <p>Source: Executive Order 202</p> <p>(Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p>	<p>March 7, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • To the extent necessary, Commissioners allowed to expand telehealth to additional provider categories and modalities • Allows other types of practitioners to deliver telehealth services within scope of practice • Authorizes the use of certain technologies for the delivery of health care to established patients.

The COVID-19 Legislative Dashboard

<p>Statute Impacted:</p> <p>NYS PHL §2999-cc</p>		
<p><u>NYS: Telehealth – Tele-Mental Health expansion</u></p> <p>Source: Executive Order 202</p> <p>(Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p>Regulations Impacted:</p> <p>10 NYCRR §58-1.5 14 NYCRR §596</p>	<p>March 7, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • To extent necessary, allows for rapid approval of the use of tele-mental health services • Removes requirement for initial in person assessment prior to telehealth services • Reduce limitations on how can deliver services • Reduce requirements for who must be present while services are provided
<p><u>NYS: Telehealth – Definition of Originating and Distant Site</u></p> <p>Statute Amended: NYS PHL §2999-cc</p>	<p>April 1, 2021 -</p>	<ul style="list-style-type: none"> • “Distant site” means a site at which a telehealth provider is located while delivering health care services by means of telehealth. Any site within the United States or United States territories is eligible to be a distant site for delivery and payment purposes. • “Originating site” means a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth.

The COVID-19 Legislative Dashboard

<p>Federal: Telehealth – Center for Medicare Services Expansion of Medicare Coverage</p> <p>Source: CMS Directive 3/17/20</p> <p>Regulation Impacted: 42 CFR §410.78</p>	<p>March 6, 2020 until end of COVID-19 Public Health Emergency</p>	<ul style="list-style-type: none"> • Telehealth considered same as in-person visits and paid at same rate • Conducted from patient’s place of residence • Patient not required to reside in rural area or travel to a clinic, hospital office to initiate telehealth • HHS will not conduct audit to ensure a prior relationship existed
<p>Telehealth – State Reciprocity: Waivers between States Bordering NYS</p> <p>Treatment of Out of State Patients – Boarding State Reciprocity of Licensure with State of New York</p>	<p>Expired/Rescinded by various border states except for Connecticut</p>	<ul style="list-style-type: none"> • Connecticut – Out of state licensed practitioners permitted to use telehealth for patients in Connecticut without a license subject to requirements until June 30, 2023 • New Jersey – Emergency to expire July 4, 2021, Temporary licensure to expire June 30,2021 • Pennsylvania - Emergency expired June 19, 2021 • Vermont - Emergency Restrictions ended June 14, 2021 • Massachusetts - State of Emergency terminated June 15, 2021. Existing temporary licenses to expire 30 days after termination.
<p>NYS: Notary Public – Officiate Execution of Documents Remotely</p> <p>Source: Executive Order 202.7</p> <p>(Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79)</p>	<p>March 19, 2020- June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> • Notary Public can witness execution of document via audio-visual technology • Audio-Visual technology must have direct interaction • Person must present valid ID on video • Person must affirm he/she is in New York State

The COVID-19 Legislative Dashboard

<p>(Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p>		<ul style="list-style-type: none"> Signed document must be transmitted to notary the same day it is signed
<p><u>NYS: Statute of Limitations in Civil Cases – Stayed</u></p> <p>Source: Executive Order 202.8 (Extended by Executive Order 202.28) (Extended by Executive Order 202.38) (Extended by Executive Order 202.48) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.67)</p> <p><u>(Ended per Executive Order 202.72)</u></p> <p><u>Statutes Impacted:</u> NYS CPLR Article 2</p>	<p>March 20, 2020 – November 3, 2020</p> <p>EXPIRED</p>	<ul style="list-style-type: none"> Statutes of limitations to commence lawsuits or serve legal process were tolled/suspended during the COVID-19 crisis Affects all causes of action including but not limited to claims of medical malpractice, breach of contract and general negligence Judicial interpretation or legislative clarification will be needed to determine if the stay of the statute of limitations by the Executive Orders is a true toll (addition of time) or a suspension (grace period) during the executive order period. If interpreted as a suspension: <ul style="list-style-type: none"> Causes of action that expired during the suspension period of the Executive Orders had to be commenced no later than November 4, 2020 If interpreted as a toll: <ul style="list-style-type: none"> Causes of action that accrued prior to March 20, 2020 will be extended 228 days Causes of action that accrued during the toll period will have commenced running on November 4, 2020 Brash v. Richards, A.D.3d (2d Dep’t

The COVID-19 Legislative Dashboard

		2021) (holding COVID-19 Executive Orders tolled the time limitation required to file an appeal)
<p>NYS: Personal Attendance of a Physician or Medical Personnel for Discovery or Deposition</p> <p>Source: NYS Court Administrative Order 129-20</p> <p>Cancelled prior order - NYS Court Administrative Order 88-20</p> <p><u>Statutes Impacted:</u> CPLR Article 31</p>	<p>May 2, 2020 – June 22, 2020</p> <p>Cancelled per A.O. 129-20</p>	<ul style="list-style-type: none"> Courts shall not order or compel the personal attendance of physician or other medical personnel (including administration) for a deposition or litigation discovery Physician or medical personnel must be performing services at a hospital or medical facility that is active in the treatment of COVID-19 patients
<p>NYS: Notification of Positive COVID-19 Test or Death within 24 Hours of Event to Family or Next of Kin</p> <p>Source: Executive Order 202.17 & 202.18</p> <p>(Extended by Executive Order 202.29) (Extended by Executive Order 202.39) (Extended by Executive Order 202.49) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>Rescinded by Executive Order 210</p>	<p>Effective April 16, 2020 through June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> Skilled nursing facilities, nursing homes and adult care facilities must notify family member or next of kin within 24 hours of a positive covid-19 test or death related to covid-19. Noncompliance is subject to \$2,000 fine per day
<p>NYS: Nursing Home and Adult Care Personnel COVID-19 Testing and Reporting</p> <p>Source: Executive Order 202.30 (Extended & Modified by Executive Order 202.40)</p>	<p>May 10, 2020 – June 24, 2021</p> <p>Rescinded by E.O. 210</p>	<ul style="list-style-type: none"> Facilities must test or arrange to test all personnel, including: all employees, contract staff, medical staff, operators and administrators for COVID-19 twice per week for facilities in

The COVID-19 Legislative Dashboard

<p>(Extended by Executive Order 202.50) (Extended by Executive Order 202.55) (Extended by Executive Order 202.60) (Extended by Executive Order 202.61) (Extended by Executive Order 202.72) (Modified by Executive Order 202.73) (Extended by Executive Order 202.79) (Extended by Executive Order 202.87) (Extended by Executive Order 202.91) (Extended by Executive Order 202.93) (Extended by Executive Order 202.96) (Extended by Executive Order 202.101) (Extended by Executive Order 202.103) (Extended by Executive Order 202.109)</p> <p>(Rescinded by Executive Order 210)</p> <p><u>Statutes Impacted:</u> 18 NYCRR § 415.26 18 NYCRR § 487.9 18 NYCRR § 488.9 NYS PHL § 4656</p>		<p>regions in Phase One and once a week for facilities in regions that have reached Phase Two</p> <ul style="list-style-type: none"> • Facility Administrator must develop and file a plan for testing with DOH by May 13th • Positive tests must be reported to DOH by 5 p.m. of the day the result is received. • Operator and Administrator of facility must file a certificate of compliance with DOH no later than May 15th • Failure to comply with order is subject to fines, suspension or revocation of operating certificate • False statements regarding testing are subject to criminal punishment • Personnel who refuse to be tested will be considered to have outdated or incomplete health assessments and will be prohibited from providing services at the facility • Nursing homes located in red, orange or yellow zones as designated by Exec. Ord. 202.68 must test or make arrangements for the testing of all personnel, including all employees, contract staff, medical staff, operators and administrators for COVID-19 as directed by Commissioner of Health
<p>Federal: New COVID-19 Reporting Requirements for Long Term Care Facilities</p> <p>Source: HHS CMS Reporting Requirements</p> <p>Other Links: CDC/NHSN COVID-19 Information</p>	<p>Effective May 8, 2020</p>	<p>Long Term Care Facilities must report electronically to CDC and NHSN on at least a weekly basis:</p> <ul style="list-style-type: none"> • Suspected and confirmed COVID-19 cases among residents and staff • Total deaths among residents and staff

The COVID-19 Legislative Dashboard

<p><u>Statute Amended</u>: 42 CFR §483.80(g)(1)(2)(3)</p>		<ul style="list-style-type: none"> • Status of PPE and hand hygiene supplies • Ventilator capacity and supply • Resident beds and resident census • Access to COVID-19 testing for residents • Staffing shortages <p>Long Term Care Facilities must inform residents, their representatives and families by 5:00 p.m. the following day of:</p> <ul style="list-style-type: none"> • A single confirmed COVID-19 infection or three or more residents/staff with respiratory symptoms that occur within 72 hours of each other
<p>Federal: Emergency Medical Treatment & Legal Act (EMTALA) – Waiver of Emergency Department Screening Requirement</p> <p><u>Source</u>: CMS COVID-19 Emergency Declaration for Health Care Providers 12/01/20</p> <p><u>Statute Impacted</u>: Social Security Act §1867(a)</p>	<p>March 1, 2020 – End of Emergency Declaration</p>	<ul style="list-style-type: none"> • Allows hospitals, psychiatric hospitals, and critical access hospitals to screen patients at a location offsite from hospital’s campus to prevent spread of COVID-19 • Must not be inconsistent with a states’ emergency preparedness or pandemic plan
<p>Federal: Waiver of Requirements for Verbal Orders</p> <p><u>Source</u>: CMS COVID-19 Emergency Declaration for Health Care Providers 12/01/20</p> <p><u>Statutes Impacted</u>:</p> <p>42 CFR §482.23, §482.24 and §485.635</p>	<p>March 1, 2020 – End of Emergency Declaration</p>	<ul style="list-style-type: none"> • Applies to verbal orders where readback verification is required and authentication may occur later than 48 hours. • Permits verbal orders for use of drugs and biologicals • Waives requirements for orders to be dated, timed and authenticated promptly • Waives requirement for hospitals to use pre-printed and electronic standing orders, order sets and protocols for patient orders

The COVID-19 Legislative Dashboard

<p>Federal: Waiver of Patient Rights for Hospitals Considered Impacted by a Widespread Outbreak of COVID-19</p> <p>Source: CMS COVID-19 Emergency Declaration for Health Care Providers 12/01/20</p> <p>Statute Impacted: 42 CFR §482.13</p>	<p>March 1, 2020 – End of Emergency Declaration</p>	<ul style="list-style-type: none"> • Applies to hospitals in a state with widespread confirmed cases per CDC • Waiver of timeframes for providing a copy of medical record • Waiver of visitation of patients in COVID-19 isolation and quarantine and seclusion
<p>Federal: Waiver of Requirement for Medicare Patients to be Under Care of Physician</p> <p>Source: CMS COVID-19 Emergency Declaration for Health Care Providers 12/01/20</p> <p>Statute Impacted: 42 CFR §482.12</p>	<p>March 1, 2020 – End of Emergency Declaration</p>	<ul style="list-style-type: none"> • Allows hospitals to use other practitioners to the fullest extent possible. • Must not be inconsistent with a state’s emergency preparedness or pandemic plan
<p>Federal: Supervision of Certified Registered Nurse Anesthetist (CRNA)</p> <p>Source: CMS COVID-19 Emergency Declaration for Health Care Providers 12/01/20</p> <p>Statute Impacted: 42 CFR §482.52</p>	<p>March 1, 2020 – End of Emergency Declaration</p>	<ul style="list-style-type: none"> • Waiver of requirement of physician supervision • Applies to hospitals, critical access hospitals and ambulatory surgical centers • Supervision will be at discretion of hospital and state law

If there are any questions regarding the above legal changes and how they impact your practice please do not hesitate to contact **Fager Amsler Keller & Schoppmann, LLP at 855-FAKS-LAW.**

Last update: 06/29/21