

Q&A: Expired Pandemic-Related Executive Orders

1. Since Executive Orders of Governor Cuomo have expired and were not renewed, are the CDC guidelines governing medical care during the covid pandemic still in effect?

Yes. New York State ended its state of emergency on June 25, 2021. However, the federal guidelines issued by the CDC remain in effect. Therefore, physicians may either adhere only to the CDC guidelines, or they may implement more stringent policies in their office.

2. May physicians still require social distancing and mask wearing in their office?

Yes. The CDC has advised that individuals who are fully vaccinated do not need to wear a mask or observe social distancing. However, since not every patient is vaccinated, and some patients are not honest in answering the question about being vaccinated or have conditions that preclude being vaccinated, mask wearing and social distancing may well be indicated in a physician's office to protect other patients. Thus, a stricter policy may be implemented.

When a patient calls for an appointment, the patient should be informed about the office policy. If the patient refuses at that time to wear a mask to the appointment or discloses his/her vaccine status, a telemedicine appointment should instead be offered to that patient. This is especially true because of the new COVID-19 variant now present in N.Y. If, however, the patient is unable to wear a mask for a true medical condition, the patient does need to be accommodated under the Americans with Disabilities Act. An accommodation may be scheduling the patient's visit at the latest time of day and immediately placing the patient in a room. Regardless of the situation, it is important to try to de-escalate some of the behavior that patients who refuse to wear masks engage in.

3. May a physician limit the number of individuals who accompany a patient to an office visit? May the physician mandate that the patient come to the appointment alone?

Yes. If the patient is both competent and does not require the physical assistance of a third party, the physician may mandate that accompanying individuals wait outside of the office. However, if the patient has dementia or a physical or mental disability that requires the assistance of a third party or companion, the physician must accommodate that patient's needs.

4. Are unvaccinated individuals required to quarantine for 14 days when they come into N.Y.S?

No. However, New York officials still recommend quarantine for all travelers who are not fully vaccinated or have not recovered from Covid-19 during the previous three months. Recommendations include either: testing three to five days after arriving in New York and self-quarantine for 7 days; or self-quarantine for 10 days if testing is not obtained.

International air travelers to New York from another country may be required to test before returning to the U.S.

5. May physicians continue to provide telemedicine visits for patients who are unable or unwilling to come to the office?

Yes. The appropriateness of providing services via telemedicine or telephonically is a clinical decision which should be documented in the patient's record.

6. May I provide telemedicine visits to patients by using only a telephone?

Yes. You may use just a telephone to provide telemedicine visits to most patients, especially those who do not have computers. However, a patient's medical condition or problem must be such that it can reasonably be treated over the telephone and does not require either a visual confirmation of a problem or an actual physical examination.

7. Must I initially see a patient for an in-person evaluation before providing telemedicine services?

Although it is not necessarily required, it may be in the best interests of providers and patients to do so since there will be a baseline and knowledge of the actual condition of patients.

8. Under the DEA regulations, may I continue to provide buprenorphine induction via telemedicine and telephone services to patients?

Yes. Under the current rules, you may continue to provide buprenorphine induction via telemedicine/telephone services to patients, but it may be in the best interests of providers and patients to have a baseline evaluation of patients before doing so.

9. Will Medicaid providers be approved to provide telephone-only services to Medicaid recipients?

Yes. Medicaid providers may continue to provide telephone-only services to recipients of Medicaid at this time, since the pandemic is not completely over. That may change at some time in the future but not right now.

10. May practitioners continue to utilize verbal informed consent for telemedicine services until a written consent can be obtained?

Yes. Verbal informed consent may be obtained for telemedicine, but we recommend that a written consent form be sent to the patient to sign and return to you as soon as possible after the first visit. The contents of a telemedicine consent form may be read to the patient during the initial telemedicine service, and the verbal consent of the patient may be obtained. However, it is crucial that the fact that you had a consent discussion with the patient and that the patient did consent be well documented in the patient's medical record. A copy of the consent form should be added to the patient's record.