

NEW YORK EXECUTIVE ORDERS EXPAND THE RANKS OF HEALTHCARE PROVIDERS TO FIGHT COVID-19

Hodgson Russ Healthcare Alert
April 21, 2020

As New York continues its battle against COVID-19, two new Executive Orders, 202.15 and 202.18, seek to alleviate the burden on healthcare workers by authorizing further expansion in the ranks of professionals who may practice in New York. These new Executive Orders build on prior Executive Orders (202.5, 202.10, 202.11, and 202.14), discussed here, which permit certain practitioners without current New York licensure or registration to practice in New York to assist in the ongoing COVID-19 fight.

Canadian practitioners may practice in New York

Executive Order 202.18 expands beyond the U.S. border the relaxed licensing requirements of prior Executive Orders. It permits the following healthcare professionals, or those with substantially similar titles, who are licensed or certified and in good standing in any province or territory of Canada, to practice in New York without civil or criminal penalty related to the lack of New York licensure or certification:

- Physicians;
- Physician assistants;
- Registered nurses, licensed practical nurses, and nurse practitioners;
- Radiologic technologists;
- Clinical nurse specialists and specialist assistants; and
- Licensed master social workers and licensed clinical social workers.

More categories of U.S. professionals may practice in New York.

Earlier Executive Orders permitted certain categories of professionals who were licensed in another state but not licensed in New York, or who were licensed in New York but not registered in New York, to practice in New York to assist with the COVID-19 crisis (E.O. 202.5, 202.10, 202.11, 202.14). The more recent Executive Orders recognize that those categories may not be broad enough to meet the needs of New Yorkers arising from the COVID-19 pandemic.

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Executive Orders 202.18 and 202.15 identify several additional categories of healthcare professionals, or those with substantially similar titles, who are licensed or certified (as applicable) and in good standing in any state in the United States to practice in New York, without civil or criminal penalty related to lack of New York licensure or certification:

- Nurse specialists and specialist assistants (E.O. 202.18);
- Licensed master social workers and licensed clinical social workers (E.O. 202.18);
- Respiratory therapy technicians (E.O. 202.15); and
- Mental health counselors, marriage and family therapists, creative arts therapists, and psychoanalysts (E.O. 202.15).

Executive Order 202.18 further permits the following healthcare professionals who lack New York registration to practice in New York without civil or criminal penalty related to lack of registration, so long as they are licensed and in good standing in New York:

- Specialist assistants;
- Respiratory therapists and respiratory therapist technicians;
- Pharmacists;
- Clinical nurse specialists;
- Dentists, dental hygienists, and registered dental assistants;
- Midwives;
- Perfusionists;
- Clinical laboratory technologists, cytotechnologists, certified clinical laboratory technicians, and certified histological technicians;
- Licensed clinical social workers and licensed master social workers;
- Podiatrists;
- Physical therapists and physical therapist assistants; and
- Mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts, and psychologists

More categories of recent graduates may practice in New York.

As discussed in our April 9 alert, Executive Order 202.14 permits certain physicians who will graduate in 2020 from accredited medical programs and are accepted by accredited residency programs, to practice in New York under the supervision of a licensed physician.

Executive Order 202.15 further permits 2020 graduates from registered or accredited medical programs located in New York State to practice medicine in New York State, without the need to obtain a license, provided that they are supervised in all cases by a physician licensed and registered to practice medicine in the state. Should the graduate meet these requirements, s/he will not be subject to civil or criminal penalty related to lack of licensure. Unlike Executive Order 202.14, this order

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requires that the accredited medical program be located in New York State, but does not require that the graduate be accepted by an accredited residency program.

Similarly, Executive Order 202.18 permits recent graduates from State Education Department-registered, licensure-qualifying nurse practitioner education programs to be employed to practice nursing in a hospital or nursing home for 180 days immediately following successful completion of the program, provided that the graduate first files an application for certification as a nurse practitioner with the State Education Department. It also permits recent graduates from State Education Department-registered, licensure-qualifying clinical laboratory technology and clinical laboratory technician education programs to be employed to practice for 180 days immediately following successful completion of the program, in a clinical laboratory with a valid New York State permit, provided that the graduate first files an application for a New York State clinical laboratory practitioner license and limited permit.

Executive Orders 202.15 and 202.18 are effective through May 9 and May 16, 2020, respectively.

In addition to these Executive Orders, practitioners should also be aware that on April 20, 2020, the New York State Department of Health issued a new Medicaid Update Special Edition, expediting the Medicaid enrollment process and creating an online Provisional Temporary Provider Enrollment application process, to permit practitioners to enroll in Medicaid on a temporary basis for the purpose of assisting with COVID-19 activities.

If you have questions about how these Executive Orders or new Medicaid enrollment process may affect your practice, please contact Jane Bello Burke (518.433.2404), Cynthia Ludwig (716.848.1689) or Joshua Feinstein (716.848.1318).

Please check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

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