

## Executive Order 202.18 Includes Numerous Healthcare Provisions

Gov. Cuomo issued Executive Order 202.18 on April 16 which includes a number of provisions important to health care providers.

### COVID-19 Testing and Notification

Executive Order 202.18 requires any skilled nursing facility, nursing home or adult care facility in New York State to notify family members or next of kin if any resident tests positive for COVID-19, or if any resident suffers a COVID-19 related death, within 24 hours of such positive test result or death. The penalty for failing to do so is \$2,000 per day, as if it were a violation of Public Health Law § 12. Subsequent violations are punishable as violations of Public Health Law § 12-b, which is punishable by fines and/or misdemeanor charges.

### Coordination of Statewide Laboratory Testing

The Department of Health (DOH) now has the authority to establish a single, statewide coordinated testing prioritization process. This will require all state laboratories — public and private — conducting COVID-19 diagnostic testing to complete testing in accordance with the established process. Laboratories cannot enter into an agreement that would reserve testing capabilities for any private or public entity without an exemption from the DOH. Further guidance from the DOH is likely forthcoming.

In addition, violations of this directive may result in a civil penalty not to exceed \$10,000 or three times the value of such testing. Importantly, the Commissioner of Health is empowered to revoke the operating certificate or license of any laboratory that violates this directive.

### Professionals Licensure and Registration

Executive Order 202.18 modifies various statutes and regulations to the extent necessary to allow healthcare professionals licensed and in current good standing in any providence or territory of Canada to practice in New York State. The following professionals are included:

- Physicians;
- Physician assistances or a substantially similar title;
- Registered nurses, licensed practical nurses, and nurse practitioners or a substantially similar title;
- Clinical nurse specialists, specialist assistants, and substantially similar titles;
- Radiologic technologists or a substantially similar title; and
- Licensed master social workers, licensed clinical social workers, and substantially similar titles.

Further, the following professionals who have an “unencumbered license” and are currently in good standing in New York State, but not currently registered in New York State, are allowed to practice in New York State without civil or criminal penalty related to lack of registration: specialist assistants, respiratory therapists, respiratory therapist technicians,

pharmacists, clinical nurse specialists, dentists, dental hygienists, registered dental assistants, midwives, perfusionists, clinical laboratory technologists, cytotechnologists, certified clinical laboratory technicians, certified histological technicians, licensed clinical social workers, licensed master social workers, podiatrists, physical therapists, physical therapist assistants, mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and psychologists.

### Professional Program Graduates

Executive Order 202.18 permits graduates of State Education Department registered, licensure qualifying nurse practitioner education programs, to be employed to practice nursing in a hospital or nursing home setting, for 180 days immediately following successful completion of their program, provided that the graduate files with the State Education Department an application for certification as a nurse practitioner.

Similarly, graduates of 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 their program in a clinical laboratory with a valid New York State permit, provided that the graduate files an application for a New York State clinical laboratory practitioner license and limited permit.

Note that earlier Executive Order 202.11 allowed 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 in these settings under similar requirements of supervision.

### Pharmacy Registration

Executive Order 202.18 extends the triennial registration deadline of pharmacy establishments which are currently registered and whose registration is set to expire on or after March 31, 2020. An application for re-registration of such registrations must be submitted no later than 30 days after expiration of the Order.

### Other Professional Practice Requirements

Clinical laboratory practitioners may perform testing in a clinical laboratory under remote supervision, provided a supervisor is on-site at least eight hours per week.

For more information on Executive Order 202.18, please contact [Hermes Fernandez](#), any of the attorneys in our [Health Care Practice](#) or the attorney in the firm with whom you are regularly in contact.



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