



State of New York

Executive Chamber

No. 4.1

EXECUTIVE ORDER

Continuing the Declaration of a Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York

WHEREAS, there are staffing shortages in hospital and other healthcare facilities and they are expected continue;

WHEREAS, severe understaffing in hospitals and other healthcare facilities is expected to continue to effect the ability to provide critical care and to adequately serve vulnerable populations;

WHEREAS, there is an immediate and critical need to supplement staffing to assure healthcare facilities can provide care;

NOW, THEREFORE, I, Kathy Hochul, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find, pursuant to Section 28 of Article 2-B of the Executive Law do hereby extend the state disaster emergency as set forth in Executive Order 4, and continue the terms, conditions, and suspensions contained in Executive Order 4, until November 26, 2021;

IN ADDITION, 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, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through November 26, 2021 the following:

- The temporary modification of Sections 8602 and 8603 of the Education Law, and section 58-1.5 of Title 10 of the NYCRR, contained in Executive Order 4, insofar as such modification authorized individuals to perform testing for the detection of SARS-CoV-2, or its antibodies, is modified only to the extent necessary to further allow such individuals to perform any clinical laboratory test on any specimen, including for the detection of SARS-CoV-2 and influenza, provided such individual is under appropriate supervision and meets the federal requirements for testing personnel appropriate to the assay or device authorized by the FDA or the New York State Department of Health;
- Subdivision a of section 763.5 of Title 10 of the NYCRR, only to the extent necessary to permit initial patient visits for certified home health agencies, long term home health care programs and AIDS home care programs to be made within 48 hours of receipt and acceptance of a community referral or return home from institutional placement;
- Paragraph 2 of subdivision g of section 763.4; paragraphs 7 and 8 of subdivision h of section 763.4; paragraph 2 of subdivision a of section 766.5; and subdivision d of section 766.5 of Title 10 of the NYCRR, to the extent necessary to permit certified home health agencies, long term home health care programs, AIDS home care programs, and licensed home care services agencies to conduct in-home supervision of home health aides and personal care aides as soon as practicable after the initial service visit, or to permit in-person and in-home supervision to be conducted through indirect means, including by telephone or video communication;

- Paragraph 3 of subdivision f of section 505.14 of Title 18 of the NYCRR, to the extent necessary to permit nursing supervision visits for personal care services to be made as soon as practicable;
- The suspension contained in Executive Order 4 of Article 30 of the Public Health Law is modified and clarified only to the extent necessary to allow EMTs and Advanced EMS providers, at the discretion of the Commissioner of Health, to provide emergent and non-emergency services in non-traditional EMS environments, such as hospitals, provided, however, that only services within such providers' level of certification may be performed;
- The suspension contained in Executive Order 4 of subdivision 7 of Public Health Law section 3001, subdivision (p) of section 800.3 is further modified to suspend subdivisions (6) and (7) of Public Health Law section 3001, subdivisions (o) and (p) of section 800.3, and section 800.15 of Title 10 of the NYCRR, only to the extent necessary to allow certified EMTs and advanced EMS providers, to administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order, including in non-emergency environments and locations, provided that EMTs and advanced EMS providers must first meet conditions set by the Commissioner of Health;
- The suspension contained in Executive Order 4 of Article 139 of the Education Law, Section 576-b of the Public Health Law and Section 58-1.7 of Title 10 of the NYCRR is further modified only to the extent necessary to permit registered nurses to also order the collection of saliva and nasal tests, in addition to throat and nasopharyngeal swab specimens from individuals, for purposes of COVID-19 testing;
- The suspension contained in Executive Order 4 of subdivision 1 of section 6902, Subdivision 4, 5 and 7 of section 6909 of the Education Law, subdivision 6 and 7 of section 6527 of the Education Law, and section 63.9 and 64.7 of Title 8 of the NYCRR to allow testing for COVID-19, is further modified only to add influenza testing, subject to the same terms and conditions; and
- The suspension contained in Executive Order 4 of sections 6521 and 6902 of the Education Law, subdivisions 4, 5, and 7 of section 6909 of the Education Law, subdivisions 6 and 7 of section 6527 of the Education Law, and sections 63.9 and 64.7 of Title 8 of the NYCRR insofar as they limit the execution of medical regimens prescribed by a licensed physicians or other licensed and legally authorized health care providers to registered nurses licensed pursuant to Article 139 of the Education Law, is further modified to the extent necessary to permit non-nursing staff, upon completion of training deemed adequate by the Commissioner of Health, to: (1) collect throat, saliva, nasal, or nasopharyngeal swab specimens, as applicable and appropriate, for purposes of COVID-19 or influenza testing; (2) collect blood specimens for the diagnosis of acute or past COVID-19 disease; (3) administer vaccinations against influenza or COVID-19 pursuant to the most recent recommendations by the Advisory Committee for Immunization Practices (ACIP) and/or an applicable United States Food and Drug Administration approval or Emergency Use Authorization (EUA), subject to any other conditions set forth in this Order, including but not limited to conditions related to training and supervision, where applicable; and (4) where applicable and to the extent necessary, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse to provide care for individuals.



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

BY THE GOVERNOR

A handwritten signature in black ink, appearing to be "W. P. K.", written over a horizontal line.

Secretary to the Governor

A handwritten signature in black ink that reads "Kathy Hochul".