

New York State Waivers

Waiver	Effective Date	Waiver Type	Permissions	Expiration
NYS Executive Order 202	3/7/2020	Provider Flexibilities	<ul style="list-style-type: none"> Allows unlicensed individuals, upon completion of appropriate training, to collect throat or nasopharyngeal swab specimens for COVID-19 or influenza testing. (Modified by Executive Order 202.69 to also include the collection of saliva swab specimens). Permits non-nursing staff to perform tasks under the supervision of a nurse that would be otherwise limited to a licensed or registered nurse. (Modified by Executive Order 202.82 to allow non-nursing staff to also: 1) collect throat, nasal, or nasopharyngeal swab specimens to test for COVID-19 or influenza, 2) collect blood specimens for the diagnosis of acute or past COVID-19 disease, and 3) administer approved vaccinations for influenza or COVID-19). Permits individuals who meet the federal requirements for high complexity testing to perform testing for COVID-19. 	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.1	3/12/2020	Telehealth Flexibilities	<ul style="list-style-type: none"> Permits DOH, OMH, OASAS, and OPWDD to allow for additional telehealth provider categories and modalities, to permit other types of practitioners to deliver services within their scopes of practice, and to authorize the use of certain technologies for the delivery of health care services to established patients. <i>Permits providers to use staff members in the most effective means possible to transport individuals receiving services from OMH or a program/provider under the jurisdiction of OMH during the emergency, provided such facilities take all reasonable measures to protect the health and safety of such individuals.</i> <p>EXPIRED per EO 202.48</p>	Extended by Executive Order 202.102 through May 19 th except as otherwise noted.
DFS 57th Amendment to Insurance Regulation 62	3/16/2020	Cost Sharing	Requires plans to waive cost-sharing for COVID-19 testing.	Extended to May 4 th .
DFS 58th Amendment to Insurance Regulation 62	3/16/2020	Cost Sharing	Requires plans to waive cost-sharing for services delivered via telehealth.	Extended to May 4 th .

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NYS Executive Order 202.5	3/18/2020	Provider Flexibilities, Background Checks	<ul style="list-style-type: none"> • Allows physicians, RNs, LPNs, NPs, and physician assistants licensed and in current good standing in any state to practice in NYS without penalties related to lack of licensure. • Allows physicians licensed and in current good standing but not registered in NYS to practice in NYS without penalties related to lack of registration. • Reduces requirements related to nursing home procedures for individuals affected by the emergency, including approvals for admission and comprehensive assessments. • Permits delayed in-home supervision of home health aides and personal care aides or allowing supervision to be conducted through telephone or video communication. • Extends the time in which home care services entities must submit information to the Home Care Worker Registry. • Prevents transportation to and attendance at adult day care programs. • Allows for abbreviated training of direct support professionals employed in programs and facilities that serve individuals with intellectual/developmental disabilities (I/DD) that are experiencing staff shortages. • Permits providers to temporarily deviate from a service plan of an individual with I/DD or relocating individuals with I/DD to maintain their health and safety during the emergency. • Exempts child care programs from having to comply with regulations of OCFS. Criminal background check exemptions for child care programs have EXPIRED per EO 202.48 	Extended by Executive Order 202.102 through May 19 th except as otherwise noted.
DFS Circular Letter No. 8 and Supplements No. 1, No. 2	3/20/2020 4/22/2020 6/26/2020	Provider Flexibilities	<i>Suspends various utilization review requirements and requires expedited payment of hospital claims.</i> Expired June 18, 2020; however, certain preauthorization requirements were temporarily reinstated per Circular Letter No. 17 (see below).	Expired June 18, 2020.

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NYS Executive Order 202.10	3/23/2020	Provider Flexibilities	<ul style="list-style-type: none"> ● Permits advance practice registered nurses with a related doctorate or master’s degree to administer anesthesia without the supervision of a qualified physician. ● Allows NPs, physician assistants, and special assistants to provide medical services appropriate to their education, training, and experience without oversight from or a collaborating agreement with a physician. ● Permits radiologic technologists and respiratory therapists licensed in another state to practice in NYS without penalty. ● Allows radiologic technologists, physician assistants, registered professional nurses, licensed practical nurses, and nurse practitioners licensed but not registered in NYS to practice without penalty. ● Authorizes certified or registered pharmacy technicians to assist in compounding, preparing, labeling, or dispensing drugs for prescriptions or home infusion medication orders under the supervision of a licensed pharmacist. ● <i>Ensures that all physicians, physician assistants, special assistants, nurse practitioners, licensed registered professional nurses, and licensed practical nurses are immune from civil liability during the course of providing medical services related to the COVID-19 outbreak, unless related to gross negligence. EXPIRED per EO 202.28</i> ● Authorizes any health care facility to allow students on track to become licensed health care professionals in NYS to volunteer at the facility for educational credit without securing a clinical affiliation agreement. ● Removes limits on working hours for physicians and postgraduate trainees. ● Allows graduates of foreign medical schools with at least one year of graduate medical education to provide patient care in hospitals. ● Waives the responsibilities of the hospital governing body to ensure adequate staffing and allow for the use of qualified volunteers or personnel affiliated with other general hospitals. ● Requires licensed health insurance companies to provide a list of all personnel with a professional licensure or degree as a medical doctor, physician assistant, licensed RN, licensed NP, or LPN. ● Provides general relief from recordkeeping requirements for health care providers, as long as it is done reasonably and in good faith to respond to COVID-19. <i>Expired per EO 202.28, but reinstated per EO 202.83.</i> 	Extended by Executive Order 202.102 through May 19 th except as otherwise noted.
DFS Circular Letter No. 9 and Supplements No. 1 , No. 2 , No. 3 , No. 4	3/25/2020	Insurance Producer Flexibilities	<ul style="list-style-type: none"> ● <i>Suspends the expiration of licenses for insurance producers. EXPIRED September 6th</i> ● Suspends the requirement that a monitor be present to complete producer continuing education and pre-licensing course exams. 	Made permanent by Supplement No. 4 except as otherwise noted.

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NYS Executive Order 202.11	3/27/2020	Provider Flexibilities	<ul style="list-style-type: none"> Suspends or modifies regulations related to operating certificates for providers of individuals with I/DD that limit the provision of certain services in certified settings (with OPWDD approval). Allows for abbreviated training and/or extension of recertification deadlines for direct support professionals providing services to individuals with I/DD that are experiencing staff shortages. Permits pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to protect Personal Health Information. Permits graduates of registered professional nurse and licensed practical nurse licensure qualifying education programs to be employed to practice nursing under the supervision of a registered professional nurse and with the endorsement of the employing hospital or nursing home for 180 days immediately following graduation. Allows midwives licensed and in current good standing in any state, or in any province or territory of Canada, to practice in NYS without penalty. Amends previous restrictions on dispensing the drugs under investigation or treatment of COVID-19 (hydroxychloroquine or chloroquine) for prophylactic purposes. Ensures that physicians assisting in the State's response to COVID-19 in a facility owned or leased by SUNY and operated by SUNY will be provided with defense from the State in an instance of civil action or proceeding. 	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.13	3/30/2020	Background Checks	Allows employees of programs licensed/certified under State agencies (OPWDD, OCFS, OASAS, OMH) who have previously undergone the appropriate background checks to be employed by a program under a different agency without undergoing new background checks.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.14	4/7/2020	Provider Flexibilities	Allows any physician slated to graduate from a medical education program in 2020 who has been accepted to a residency program within or outside NYS to practice at any institution under the supervision of a licensed physician.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.15	4/9/2020	Provider Flexibilities	<ul style="list-style-type: none"> Allows respiratory therapy technicians licensed in any state to practice in NYS without penalty. Allows mental health counselors, marriage and family therapists, creative arts therapists, and psychoanalysts licensed in any state to practice in NYS without penalty. Allows students who have graduated from registered or accredited medical programs in NYS in 2020 to practice medicine in NYS, without the need to obtain a license and without risk of penalty, provided they are supervised by a licensed physician. 	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.16	4/12/2020	Provider Flexibilities	Modifies the qualification requirements of medical or clinical laboratory technologists to allow additional individuals to perform testing for the COVID-19 virus or its antibodies.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.18	4/16/2020	Provider Flexibilities	<ul style="list-style-type: none"> Allows nurses (RN, LPN, NP), physicians, physician assistants, radiologic technologists from Canada to practice in NYS. Allows clinical nurse specialists, specialist assistants, and licensed master or clinical social workers from out of state to practice in NYS. Allows a wide variety of licensed professionals with an unencumbered license to practice in NYS without registration. Allows nurse practitioners to practice in a hospital or nursing home for 180 days following graduation and permits clinical laboratory technologists and technicians to practice for 180 days following licensure. Permits pharmacy technicians and pharmacists to practice at an alternative location, including their home. 	Extended by Executive Order 202.102 through May 19 th .

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NYS Executive Order 202.24	4/25/2020	Provider Flexibilities	<ul style="list-style-type: none"> • Authorizes licensed pharmacists to order tests to detect SARS-CoV-2 or its antibodies, and to administer COVID-19 tests after completion of appropriate DOH training. (Modified by Executive Order 202.92 to allow pharmacists to order FDA-approved COVID-19 tests, including by standing order, under certain conditions). • Permits licensed pharmacists to be designated as a qualified health care professional for the purpose of directing a clinical service laboratory to test patients for COVID-19 or its antibodies. (Modified by Executive Order 202.92 to include FDA-approved rapid tests under certain conditions). 	Extended by Executive Order 202.102 through May 19 th .
DFS Circular Letter No. 10 and DFS 60th Amendment to Insurance Regulation 62	5/2/2020	Cost Sharing	Requires regulated health insurance plans to waive out-of-pocket costs (i.e. cost-sharing, deductibles, copayments, and coinsurance) for in-network mental health services for frontline essential workers during the COVID-19 emergency.	Extended through April 26 th .
NYS Executive Order 202.32	5/21/2020	Provider Flexibilities	<ul style="list-style-type: none"> • Allows physicians to order COVID-19 tests for self-collection, without otherwise having an initial physician-patient relationship with the patient. • Allows clinical laboratories to accept and examine specimens for COVID-19 testing from personnel of nursing homes and adult care facilities without a prescription or order from an authorized ordering source, and to report the results of such tests to the appropriate operators and administrators of the nursing home or adult care facility. (Modified by Executive Order 202.92 to allow limited service laboratories to accept and examine specimens for COVID-19 rapid testing without a patient specific order or a prescription or order from an authorized ordering source under certain conditions). 	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.36	6/2/2020	Telehealth Flexibilities	Permits a practitioner to establish a patient relationship using only a questionnaire for the purpose of ordering a clinical laboratory test, which may be administered through an asynchronous electronic interface, including email.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.40	6/10/2020	Nursing Homes	Operators and administrators of all nursing homes and all adult care facilities, which are located in regions that have reached Phase Two of reopening, must test or make arrangements for the testing of all personnel, including all employees, contract staff, medical staff, operators, and administrators, for COVID-19, once per week.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.55	8/6/2020	Provider Flexibilities	Hospitals, not-for-profit housing providers, and others may offer temporary housing to any individual assisting with COVID-19 response or displaced due to COVID-19 for a period of 30 days or more without creating a landlord-tenant relationship.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.73	11/9/2020	Nursing Homes	Modifies Executive Order 202.40 to require nursing homes located in designated red, orange, or yellow cluster zones to 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 the Commissioner of Health.	Extended by Executive Order 202.102 through May 19 th .

<p>NYS Executive Order 202.82</p>	<p>12/13/2020</p>	<p>Provider Flexibilities, Vaccine Requirements</p>	<p><u>Vaccine Ordering and Administration</u></p> <ul style="list-style-type: none"> • Authorizes the use of new/temporary vaccination sites (PODs) for administering the COVID-19 and influenza vaccine and authorizes a broad array of individuals to administer vaccines (with training and supervision), including those who are either: 1) Not currently authorized to administer vaccinations, but who are appropriately licensed or certified health professionals, including midwives, dentists, certain dental hygienists, podiatrists, emergency medical technicians, advanced emergency medical technicians, and certain newly licensed pharmacists; or 2) Enrolled in one of the following educational or training programs and evaluated and trained to administer vaccinations: <ul style="list-style-type: none"> ○ A medical program; ○ A registered professional nursing program or licensed practical nursing program; ○ A physician assistant program; ○ A pharmacy program (pharmacy students who have obtained a limited permit, including a certificate to administer immunizations, are deemed to have the minimum necessary clinical experience to administer COVID-19 and influenza vaccinations); ○ A dentistry program; ○ A podiatric medicine program; or ○ A midwifery program. • Allows non-nursing staff who have completed appropriate training to: <ul style="list-style-type: none"> ○ collect throat, nasal, or nasopharyngeal swab specimens to test for COVID-19 or influenza; ○ collect blood specimens for the diagnosis of acute or past COVID-19 disease; ○ administer approved vaccinations for influenza or COVID-19, and ○ perform tasks, under the supervision of a nurse, that would be otherwise limited to a licensed or registered nurse, in order to provide care for individuals diagnosed or suspected of suffering from a COVID-19 or influenza infection. • Allows licensed physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses, physician assistants, special assistants, pharmacists, or other individuals authorized by this EO to complete the above tasks. • Permits registered professional nurses to prescribe, order, and execute non-patient specific regimens for the administration of the COVID-19 vaccine. • Allows licensed practical nurses, following appropriate training and certification, to prescribe, order, and execute COVID-19 and influenza vaccinations at PODs under supervision and following appropriate training and certification. • Permits licensed pharmacists to administer COVID-19 vaccines less than 90 days after approval of the vaccine by the Food and Drug Administration (FDA). • Allows patient specific orders or non-patient specific regimens for COVID-19 or influenza vaccination administration to be prescribed, ordered to, and executed by licensed pharmacists certified to administer immunizations and newly licensed pharmacists that received a limited permit with certification to administer immunizations under certain conditions. • Allows licensed pharmacists not certified to administer immunizations to administer COVID-19 and influenza vaccinations at PODs under supervision following appropriate training and certification. • Permits licensed physicians and certified nurse practitioners located within any county to issue a patient specific prescription or a non-patient specific regimen for COVID-19 and influenza vaccination to licensed pharmacists certified to administer vaccines or to newly licensed pharmacists as authorized by this EO unless administering COVID-19 or influenza vaccinations at a POD site. • Permits a physician assistant to provide medical services appropriate to their education, training, and experience without oversight from a supervising physician, including administering COVID-19 and 	<p>Extended by Executive Order 202.102 through May 19th.</p>
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			<ul style="list-style-type: none"> Allows licensed pharmacists to order tests for the detection of influenza virus or respiratory syncytial virus RNA in specimens collected from individuals suspected of suffering from or having recovered from a COVID-19 or influenza infection, and to administer such tests upon completion of appropriate DOH training. Applies sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) of the Insurance Law to “grandfathered health plans” with regards to COVID-19 immunization coverage. 	
NYS Executive Order 202.83	12/18/2020	Provider Flexibilities	<p>Reinstates relief around health care providers maintaining recordkeeping requirements. Specifically, providers acting reasonably and in good faith will be afforded absolute immunity from liability for any failure to comply with any recordkeeping requirement, if needed to perform tasks to respond to the COVID-19 outbreak. This includes, but is not limited to, requirements related to:</p> <ul style="list-style-type: none"> Maintaining medical records that accurately reflect the evaluation and treatment of patients; Assigning diagnostic codes; or Creating or maintaining other records for billing purposes. 	Extended by Executive Order 202.102 through May 19 th .
DFS Circular Letter No. 17	12/23/20	Provider Flexibilities	<p><i>Directs insurers to suspend the following requirements:</i></p> <ul style="list-style-type: none"> <i>Preauthorization review for urgent or non-elective scheduled inpatient surgeries, hospital admissions, and transfers between hospitals;</i> <i>Preauthorization review for inpatient rehabilitation and home health care services following an inpatient hospital admission;</i> <i>Preauthorization review for inpatient mental health services following an inpatient hospital admission; and</i> <i>Notification requirements that include the submission of medical records by the hospital to the insurance plan following an emergency hospital admission or financial penalties on a hospital for failure to provide notification of an emergency admission.</i> <p>Expired; however, on March 10th DFS issued guidance (here) that includes new requirements for insurance plans regarding administrative denials, settlement of claims, utilization review timeframes, and retrospective denials.</p>	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.86	12/28/20	Provider Flexibilities, Vaccine Requirements	<ul style="list-style-type: none"> Authorizes retired physicians, registered professional nurses, licensed practical nurses, and nurse practitioners who are licensed and in good standing in New York State to re-register through an expedited automatic registration form without any registration fees. Requires health care providers administering the vaccine to ensure that individuals receiving the vaccine are a member of a specific priority group that has been determined by DOH to be eligible for the vaccine. 	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.87	12/30/2020	Provider Flexibilities	Removes limits on working hours for physicians and postgraduate trainees.	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.88	01/04/2021	Nursing Homes	Modifies Executive Orders 202.40 and 202.73 to authorize the Commissioner of Health to set forth testing requirements of all nursing home personnel in any area of the state, irrespective of location in a micro-cluster zone.	Extended by Executive Order 202.102 through May 19 th .

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NYS Executive Order 202.90	01/12/2021		<ul style="list-style-type: none"> • Authorizes licensed pharmacists to supervise up to four unlicensed assistants or pharmacy technicians holding a temporary license; • Requires practitioners, who were authorized by Executive Order 202.82 to administer the COVID-19 vaccine, to meet training requirements and other conditions set by the Commissioner of Health prior to vaccine administration; and • Allows certain individuals with certifications from pharmacy technician programs to be temporarily licensed as “pharmacy technicians” for the sole purpose of administering COVID-19 vaccines under direct supervision at Points of Dispensing (POD) sites overseen by the State or local health departments. Such individuals must complete required training prior to administering vaccines. 	Extended by Executive Order 202.102 through May 19 th .
NYS Executive Order 202.92	01/27/2021	Provider Flexibilities	<ul style="list-style-type: none"> • Permits pharmacist-directed limited service laboratories to also test for COVID-19 infection using a rapid test as part of the enhanced economic activity plan authorized by DOH, provided that such test is FDA-approved and waived for use in a limited service laboratory. • Authorizes licensed pharmacists to order tests for the detection of COVID-19, including by standing order, as part of the enhanced economic activity plan authorized BY DOH, provided that such test is FDA-approved and subject to certificate of waiver requirements. • Permits a limited service laboratory, authorized by DOH to test for COVID-19 infection as part of the enhanced economic activity plan authorized by DOH, to accept and examine specimens for COVID-19 rapid testing without a patient specific order or a prescription or order from an authorized ordering source. Such laboratories must make available to patients (including via an online registration) the guidance to be issued by DOH related to rapid testing under this Executive Order. The laboratory must also report any positive results within 24 hours to the local department of health and DOH through the Electronic Clinical Laboratory System (ECLRS). • Authorizes the Commissioner of Health to direct COVID-19 testing for all staff or to modify or eliminate visitation or leave for residents at any state, local, or voluntary not-for-profit congregate facility supervised or licensed by the Office of Mental Health, Office of Addiction Services and Supports, Department of Corrections and Community Supervision, Office for People with Developmental Disabilities, or the Department of Health on a regular schedule or in order to control an outbreak as necessary. 	Extended by Executive Order 202.102 through May 19 th .