

GREATER NEW YORK HOSPITAL ASSOCIATION


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MEMBER LETTER

September
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ML-93

TO: Chief Executive Officers (New York State)

FROM: Kenneth E. Raske, President 

RE: Governor Hochul's Executive Order Suspends Several Laws and Regulations to Give Hospitals, Nursing Homes Staffing Flexibility; Utilization Review Suspended

New York Governor Kathy Hochul has issued a declaration of disaster emergency to address health care staffing shortages in the State. Her [Executive Order](#) (EO) contains several legal and regulatory suspensions to give hospitals and nursing homes flexibility in meeting their staffing needs. *The EO suspends utilization review and other Insurance Law provisions (see below). GNYHA strongly advocated for those suspensions and thanks the Governor for her decisive action on them and the EO's many other provisions.*

Below is a summary of the EO. GNYHA will post all the EO's provisions organized by topic on our website. **The suspensions and modifications will remain in place through October 27.**

Utilization Review (UR), Pre-Authorization, Insurance Appeals

The EO suspends certain UR activities to the extent necessary to increase the availability of health care staff, provided hospitals certify to each health plan that increasing the availability of such staff is necessary. The UR functions that are suspended upon such certification are:

- Preauthorization for scheduled surgeries, hospital admissions, hospital outpatient services, home health services following a hospital admission and inpatient and outpatient rehabilitation services following a hospital admission
- Concurrent review for inpatient and outpatient hospital services
- Retrospective review for inpatient and outpatient services at in-network hospitals

The UR suspensions are only effective upon submission of the certification to health plans. The EO does not require the plans to approve such certifications. We have prepared the attached certification template for this purpose and encourage you to submit certifications to your contracted health plans as soon as possible if you need to increase health care staff availability. The EO also tolls statutory timeframes for hospitals to submit internal and external appeals.

Out-of-State Licensed Professionals; NYS Licensees with Lapsed Registration



GNYHA is a dynamic, constantly evolving center for health care advocacy and expertise, but our core mission—helping hospitals deliver the finest patient care in the most cost-effective way—never changes.

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The EO authorizes out-of-state physicians, registered nurses (RN), licensed practical nurses (LPN), nurse practitioners (NP), physician assistants (PA), midwives, radiologic technologists, respiratory therapists and technicians, and other professionals to practice in New York. Physicians, RNs, LPNs, midwives, and PAs may also be sourced from Canada and other countries approved by the New York State (NYS) Department of Health (DOH). The EO includes accommodations for NYS-licensed professionals, including certain retirees, with lapsed registration.

Authorization for Students and Recent Graduates to Practice

Graduates of NYS-registered educational programs for NPs, RNs, LPNs, clinical laboratory technologists, and technicians may practice, generally for a period of up to 180 days after graduation. The EO also contains authorization to practice for certain medical school graduates and students set to graduate in 2021 or 2022. In addition, the EO allows graduates of foreign medical schools to provide patient care in hospitals, provided they have completed one year of graduate medical education.

Scope of Practice

The EO grants authority to certain emergency medical services personnel to practice in different settings and perform additional services, such as administering vaccinations against influenza and COVID-19 pursuant to a non-patient specific order (NPSO) under the direction of a licensed physician. The EO also modifies the definition of “emergency medical services.” Further, it allows RNs to order COVID-19 testing and to carry out NPSOs for COVID-19 diagnostic and antibody testing, vaccination for flu and COVID-19, and other tasks, in addition to containing flexibility around the use of NPSOs in general.

Other Flexibilities

The EO gives hospitals and nursing homes the flexibility to discharge, transfer, and receive patients as authorized by the DOH Commissioner due to staffing shortages, under certain conditions. Physicians may perform visits to nursing home residents via telemedicine. Certain recordkeeping requirements are suspended. Also included is remote supervision of testing clinical laboratories, among other lab-related flexibilities.

Please contact [Laura Alfredo](#) with questions about the EO, and [Kathleen Shure](#) with questions about the UR suspensions.

Attachment

cc: Chief Medical Officers
Chief Nursing Officers
Chief Quality Officers
Human Resources
Infection Prevention
Legal Affairs Committee

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Government Affairs Representatives
Public Affairs Representatives
Managed Care Committee
Finance and Reimbursement Directors

Pursuant to New York Governor Kathy Hochul's Executive Order No. 4 declaring a disaster emergency for the State of New York effective September 27, 2021, I certify that it is necessary to increase the availability of health care staff at _____ by suspending the following activities:

- Preauthorization review for:
 - scheduled surgeries in hospital facilities
 - hospital admissions
 - hospital outpatient services
 - home health services following a hospital admission
 - inpatient and outpatient rehabilitation services following a hospital admission
- Concurrent review for inpatient and outpatient hospital services
- Retrospective review for inpatient and outpatient hospital services at in-network hospitals.

Signature

Date