State of New York

JAN 26 2015

Department of State
Secretary of State

State of New York

Executive Chamber

No. 141

EXECUTIVE ORDER

DECLARING A DISASTER AND A TEMPORARY SUSPENSION AND MODIFICATION OF HEALTH STATUTES AND REGULATIONS IN THE COUNTIES OF BRONX, DUTCHESS, KINGS, NASSAU, NEW YORK, ORANGE, PUTNAM, QUEENS, RICHMOND, ROCKLAND, SUFFOLK, ULSTER, WESTCHESTER, AND CONTIGUOUS COUNTIES

WHEREAS, on January 26, 2015 and continuing thereafter, a strong winter storm began to impact New York State and poses an imminent danger to vital public transportation, utility service, and public health and public safety systems within the counties of Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Ulster, Westchester, and contiguous areas; and

WHEREAS, this winter storm is predicted to produce blizzard-like conditions, snowfall amounts of in excess of two feet, wind gusts up to 65 miles per hour, and dangerously cold wind chills. These conditions may cause widespread power outages and roadway closures, damage to homes, apartments, and businesses, public and private property, and may result in moderate to severe coastal erosion, and will continue to pose a threat to the public health and safety;

WHEREAS, it is incumbent upon the State to ensure that the provision of health care services to New Yorkers continues with minimal disruption; and

WHEREAS, full compliance with certain statutory and regulatory requirements may delay or impede the ability of providers to furnish such services;

NOW, THEREFORE, I, ANDREW M. CUOMO, 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 that a disaster is imminent for which the affected local governments are unable to respond adequately. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective January 26, 2015 within the territorial boundaries of the counties of Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam,

Queens, Richmond, Rockland, Suffolk, Ulster, Westchester, and contiguous counties. This Executive Order shall be in effect through February 2, 2015; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize, effective January 26, 2015, the State Office of Emergency Management, the Department of Health, the Department of Transportation, the State Police, the Division of Military and Naval Affairs, the Department of Environmental Conservation, the State Department of Corrections and Community Supervision, the Public Service Commission, the Office of Fire Prevention and Control, the Department of Labor, the Office of Parks, Recreation and Historic Preservation, the Office of General Services, the State University of New York, the Thruway Authority, the Division of Homeland Security and Emergency Services, other State agencies as necessary, and the American Red Cross to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety.

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. § 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary in order to ensure that snow removal crews can clear vital roadways and hasten the movement of utility power restoration crews into New York State.

IN ADDITION, I have designated John P. Melville, Acting Commissioner of the Division of Homeland Security and Emergency Services, as the State Coordinating Officer for this event.

FURTHER, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend specific provisions of any statute, local law, ordinance, orders, rules or regulations, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, hereby temporarily suspend, for the period from the date of this Executive Order through February 2, 2015, the following laws:

Subdivision (2) of section 3320 of the Public Health Law, and any associated regulations, to the extent necessary to allow licensed facilities, including but not limited to hospitals, nursing homes, and institutional dispensers, to temporarily accept, store and administer those controlled substances lawfully prescribed to patients and residents affected by the disaster emergency, while maintaining appropriate patient specific record-keeping and diversion prevention practices, and subject to any terms and conditions that the Commissioner of Health may deem appropriate;

Subdivision (1) of section 3333 and subdivision (2) of section 3338 of the Public Health Law, and any associated regulations, to the extent necessary to allow a licensed pharmacist to dispense a controlled substance to a patient whose access to prescriptions or previously dispensed controlled substances has been directly affected by the disaster emergency, if the pharmacist, through the use of a shared database can verify the authenticity of the prescription and the prescription indicates authorized refills;

Subdivision (3) of section 3332, subdivision (1) of section 3333 and subdivision (3) of section 3339 of the Public Health Law, and any associated regulations, to the extent necessary to allow a licensed practitioner

to prescribe and a licensed pharmacist to dispense a controlled substance more than seven days prior to the date the previously dispensed supply would have been exhausted if the patient's supply has been destroyed, made unusable or made inaccessible due to the disaster emergency;

Paragraph (a) of subdivision (2) of section 6810 of the Education Law, and any associated regulations, to the extent necessary to allow a licensed pharmacist to dispense a non-controlled prescription drug to a patient whose access to previously dispensed non-controlled prescription drug has been directly affected by the disaster emergency, if the pharmacist, through the use of a shared database can verify the authenticity of the prescription and the prescription indicates authorized refills.

Section 400.9 and paragraph (7) of subdivision (f) of section 405.9 of Title 10 of the New York Codes, Rules and Regulations ("NYCRR"), to the extent necessary to permit general hospitals and nursing homes licensed pursuant to Article 28 of the Public Health Law ("Article 28 facilities") and affected by the disaster emergency to rapidly discharge, transfer or receive patients, as authorized by the Commissioner of Health, provided that such facilities take all reasonable measures to protect the health and safety of patients and residents, including safe transfer and discharge practices, and comply with the Emergency Medical Treatment and Active Labor Act (42 U.S.C. § 1395dd) and any associated regulations;

Section 400.11 of Title 10 of the NYCRR, to the extent necessary to permit Article 28 facilities receiving patients evacuated from other Article 28 facilities due to the disaster emergency to complete patient review instruments as soon as practicable;

Section 400.12 of Title 10 of the NYCRR, to the extent necessary to allow patients affected by the disaster emergency to be transferred to receiving Article 28 facilities as authorized by the Commissioner of Health;

Subdivision (e) of section 405.2 of Title 10 of the NYCRR, to the extent necessary to permit general hospitals affected by the disaster emergency to maintain adequate staffing;

Subdivision (b) of section 405.3 of Title 10 of the NYCRR, to the extent necessary to allow general hospitals affected by the disaster emergency to use qualified volunteers or personnel affiliated with different hospitals, subject to terms and conditions established by the Commissioner of Health;

Paragraph (6) of subdivision (b) of section 405.4 of Title 10 of the NYCRR, to the extent necessary to allow general hospitals affected by the disaster emergency to assess the fitness of medical postgraduate trainees and attending physicians to continue working without a specific hourly limit;

Paragraph (1) of subdivision (e) of section 405.4 and subdivision (b) of section 707.3 of Title 10 of the NYCRR, to the extent necessary to permit physicians to supervise up to ten physician assistants and registered specialist assistants in general hospitals affected by the disaster emergency;

Paragraph (12) of subdivision (b) of section 405.9 of Title 10 of the NYCRR, to the extent necessary to permit general hospitals receiving patients transferred from Article 28 facilities evacuated as a result of the

disaster emergency to arrange for the performance of histories and physical examinations of the evacuated patients as soon as practicable following admission;

Subdivision (d) of section 405.19 of Title 10 of NYCRR, to the extent necessary to allow general hospitals affected by the disaster emergency to staff their emergency departments as needed;

Subdivision (a) of section 405.28 of Title 10 of the NYCRR, to the extent necessary to permit general hospitals receiving individuals affected by the disaster emergency to provide social services screenings as soon as practicable following admission or to forego such screenings for individuals returned to facilities from which they were evacuated;

Section 415.11 of Title 10 of the NYCRR, to the extent necessary to permit nursing homes receiving individuals affected by the disaster emergency to perform comprehensive assessments of those residents temporarily evacuated to such nursing homes as soon as practicable following admission or to forego such assessments for individuals returned to facilities from which they were evacuated;

Subdivision (b) of section 415.15 of Title 10 of the NYCRR, to the extent necessary to permit nursing homes receiving individuals affected by the disaster emergency to obtain physician approvals for admission as soon as practicable following admission or to forego such approval for individuals returned to facilities from which they were evacuated;

Subdivision (i) of section 415.26 of Title 10 of the NYCRR, to the extent necessary to permit nursing homes receiving individuals affected by the disaster emergency to comply with admission procedures as soon as practicable following admission or to forego such procedures for individuals returned to facilities from which they were evacuated;

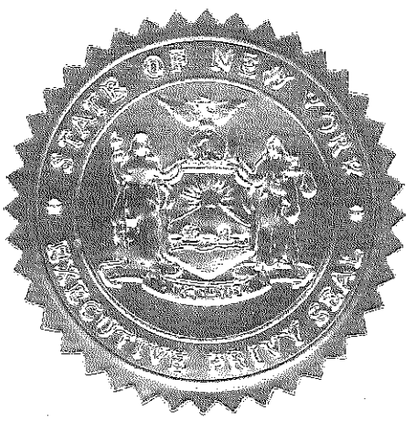
Paragraph (7) of subdivision (h) of section 763.4 and paragraph (1) of subdivision (d) of section 766.5 of Title 10 of the NYCRR, to the extent necessary to permit certified home health agencies, long term home health care programs, AIDS home care programs, and licensed home care services agencies serving individuals affected by the disaster emergency to conduct in-home supervision of home health aides and personal care aides as soon as practicable after the initial service visit;

Subdivision (a) of section 763.5 of Title 10 of the NYCRR, 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 serving individuals affected by the disaster emergency to be made within 48 hours of receipt and acceptance of a community referral or return home from institutional placement;

Subparagraph (ix) of paragraph (5) of subdivision (b) of section 505.14 and subdivision (f) of section 505.28 of Title 18 of the NYCRR, to the extent necessary to permit an additional 15 days for reauthorizations of personal care and consumer directed personal assistance program services for individuals affected by the disaster emergency, where the authorized period of services otherwise would terminate during the period of the disaster emergency declared pursuant to this Executive Order

Subparagraph (ii) of paragraph (2) of subdivision (e) of section 505.14 of Title 18 of the NYCRR, to the extent necessary to permit training for personal care workers serving individuals affected by the disaster emergency to be held as soon as practicable after the conclusion of such period, where such training otherwise would be required during the period of the disaster emergency declared pursuant to this Executive Order, provided that such workers have sufficient competence to provide such services; and

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 provided to individuals affected by the disaster emergency to be made as soon as practicable.



GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-sixth day of January in the year two thousand fifteen.

BY THE GOVERNOR

Secretary to the Governor