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**Public Health and Health Planning Council (PHHPC)  
Meetings**

The Public Health and Health Planning Council (“PHHPC”) recently held a full council meeting via live webcast. A link to the full PHHPC agenda materials can be found [here](#).

The Committee on Codes, Regulations and Legislation (“CCRL”) met just prior to the full Council meeting, of which they considered, and presented to the full council, the following three regulatory proposals for adoption.

For adoption:

- Regulation which reduces requirements for tuberculosis (“TB”) screening of healthcare workers and would use a basis of individual risk assessment to determine the need for testing intervals;
- Regulation which reduces the minimum volume projected case thresholds, from 500 cases to 300 cases, for Cardiac Surgery Center seeking Certificate of Need approval;
- Regulation which establishes the State’s maximum contaminant levels (MCLs) in drinking water, by measurement of PFOA, PFOS and 1,4-dioxane.

The CCRL and the full Council recommended all three proposals for adoption.

The full Council meeting included a presentation by the Department of Health - Commissioner, Dr. Howard Zucker. Dr. Zucker presented to the Council on the various topics related to the Department’s ongoing efforts to control and manage the COVID-19 public health emergency.

- The Commissioner accredited the State’s achievement of “flattening the curve,” to the broad public participation with the State’s fact based, data-driven guidance and policies, accompanied by a focus on diagnostic testing and tracing systems strengthened by technology and constant communication with local governments.
- DOH continues to monitor the testing for, and infection rates of, the Coronavirus throughout the ten regions of the state which have all achieved metrics to enter Phase 4 of the State’s phased regional re-opening plan. Though rates of infection, hospitalizations, and fatalities have continued to drop over the past month since the peak of the pandemic, the Commissioner reiterated that the slightest deviation from healthy practices, social distancing, and use of face masks/coverings can generate a spike in infections.
- The State’s current Travel Advisory requires travelers entering New York from other states whose infection rates meet certain measured criteria, to self-quarantine for a minimum of 14 days; 34 states meet such criteria as of the date of this meeting.
- The Commissioner also provided updates on enforcement actions resulting from compliance checks being conducted statewide by the State’s Multi-Agency Task Force.

The Establishment and Project Review Committee (“EPRC”) presented a report of recommendations on a series of CON applications. All applications presented were recommended for approval by the full Council.

PHHPC's Committees, Health Planning and Public Health, intend to hold three joint panel discussions on August 12<sup>th</sup>, focused on the anticipated needs in public health with regard to the impacts of the COVID-19 pandemic. The next EPRC meeting is scheduled for Thursday, September 24, 2020, and the next full Council meeting is scheduled for Thursday, October 8, 2020.

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### **Executive Order No. 202.54**

Governor Cuomo issued [Executive Order \("EO"\) No. 202.54](#) continuing through August 29, 2020, certain suspensions of law and directives include in EOs #202.36, #202.37, as extended, and EOs #202.46, and #202.47, with exception for certain provisions related to elections, any extension of period for paying property taxes without interest or penalties, and suspensions of law necessary to allow school budget re-votes to be scheduled on July 28.

The provisions and directives extended by this EO include, but are not limited to, the following:

- [EO #202.36](#) - allows for practitioner-patient relationship to be established through an electronic questionnaire for purposes of ordering a clinical laboratory test, allowing for re-opening of barbershops and hair salons, certain restricted re-opening of racetracks, and allowing for certain outdoor, low-risk recreational activities;
- [EO #202.37](#) - directs that special education services and instruction required under Federal, state or local laws, rules, or regulations, may be provided in person for the summer term within school districts; and
- [EO #202.47](#) - authorizes peace officers to enforce provisions of the Alcoholic Beverage Control Law and Public Health Law, or judgement for violation thereof.

Additionally, this EO retroactively extends by twenty-one days the period for paying property taxes which were due by 7/1/20 in the Village of Atlantic Beach, free of penalties and interest.

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### **CMS & CDC Announce Provider Reimbursement for Counseling At the Time of COVID-19 Testing**

The Centers for Medicare and Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC) have announced the availability of reimbursement for physicians and health care providers to counsel patients, at the time of Coronavirus disease 2019 (COVID-19) testing, about self-isolation, prior to onset of symptoms. Provider counseling at the time of testing will include discussions regarding the immediate need for self-isolation, the

importance to inform members of their immediate household and recommendation for them to be tested, and the review of signs and symptoms along with supportive services while self-isolated.

Through existing evaluation and management (E/M) payment codes, CMS will offer reimbursement to providers who are eligible to bill for counseling services regardless of the location of the administered test. Additional information, resources and links can be found here: <https://www.cms.gov/files/document/counseling-checklist.pdf> and on the CMS – [Current Emergencies webpage](#) – under Billing & Coding Guidance and Clinical & technical guidance.

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### **NY Medicaid EHR Incentive Program – Webinars**

The DOH's NY Medicaid EHR Incentive Program will host two webinars to share in-depth information on Meaningful Use (MU) topics and the NY Medicaid EHR Incentive Program. Here are our upcoming webinars in August:

**Patient Engagement** – **August 12, 2020 11:00 am** – This webinar is geared towards Eligible Professionals (EPs) new to or struggling with the Patient Engagement activities required for Stage 3 meaningful use. Topics covered include: benefits of the patient portal, strategies and considerations for setting up a portal, and a breakdown of measures involving patient engagement.

**Security Risk Analysis (SRA)** – **August 25, 2020 at 11:00 am** – This webinar provides guidance to EPs about the security risk analysis requirements to meet Meaningful Use Objective 1: Protect Patient Health Information. Topics covered include: a detailed review of Objective 1, the SRA Toolkit, important safety measures, and common considerations to review when creating an action plan.

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### **Deadline Extended for Provider Relief Fund Applications – Medicaid & CHP Providers**

CMS recently issued a notice that the deadline for eligible Medicaid and Child Health Plus (CHP) providers to apply for payment from the **Provider Relief Fund** under the Coronavirus Aid, Relief, and Economic Security (CARES) Act has **been extended to August 28, 2020**.

In June, HHS announced the availability of \$15 billion in funding for Medicaid and CHIP providers who did not yet receive funds from the \$50 billion General Distribution.

***CMS instructions on how to apply:*** All eligible medical, dental, and long-term services and supports (LTSS) providers can use these helpful links to begin the application process.

- [CARES Act Provider Relief Fund](#);
- Instructions for [Medicaid and CHIP Provider Distribution](#); and
- The [Medicaid and CHIP Provider Distribution Application Form](#).

These documents can help applicants in completing the process through the [Enhanced Provider Relief Fund Payment Portal](#).

Additional information can be found [here](#), and the full announcement including information about second opportunity to apply for Provider Relief Funding and payments for providers who had a change of ownership from CMS can be found [here](#).

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## **Updated ACF Legal Services Agencies and Community Resources Guide**

DOH has issued [DAL 20-19](#) to adult care facilities (ACF) and assisted living facilities informing them of the release of the updated Adult Care Facility (ACF) Legal Services Agencies and Community Resources Providing Resident Advocacy Services Guide (“the Guide”). The Guide has been updated, recorded and revised with the most current information, including free legal and resident advocacy services and Office for the Aging contacts.

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## **Regulatory Update**

### **Department of Financial Services (DFS)**

#### **Essential Worker Cost Sharing Waiver**

DFS has issued [emergency regulations](#) which requires all regulated health insurers issuing policies within New York State to waive any copayments, coinsurance, or annual deductible requirements for in-network outpatient mental health services delivered to an essential worker, unless the policy or contract is a high deductible health plan, in which such service is subject to the plan’s deductible. This rule, which will be in effect for 60 days, requires insurers to provide written notice to its in-network outpatient mental health providers, and includes a detailed list of essential workers covered under this rule to include, but not limited to, various healthcare professionals of various healthcare settings, first-responders, and public safety.

## Department of Health

### Enforcement of Social Distancing Measures

The DOH has issued an [emergency regulation](#) which codifies into regulation, requirements which promote and enforce social distancing and mandates that individuals use of a face mask or face covering when social distancing is not possible. The regulation also codifies certain additional provisions included within Executive Order No. 202, as amended and extended, relating to restrictions on non-essential gatherings of more than ten individuals for any reason at any location across the State unless otherwise modified by an Executive Order. Additionally, businesses, property owners and management of such premises, are required to enforce such rules to promote the safety and public health of patrons, employees and the general public. This rule applies civil and monetary penalties of a maximum of \$1,000 per violation to individuals found to be in violation of any part this rule, to the extent where each day a violation occurs shall constitute a separate violation. This rule is to apply for the duration of any state of disaster emergency declared under Executive Law that relates to the outbreak of COVID-19 in New York State.

This emergency rule is effective as of July 9, 2020.

### Meeting Space in Transitional Adult Homes

The DOH has *re-issued* an [emergency regulation](#) which clarifies requirements for Transitional Adult Home (“TAH”) operators to provide space for residents to meet privately with staff of the facility, visitors or other service providers. This rule requires that such space meet certain criteria such as a minimum of 160 square feet, above grade level, offer privacy, and be separate and distinct from an occupied or reserved resident room. The TAH operator will be required to submit a plan explaining how the operator will meet the space requirements to the Department within 30 days of the Department’s request.

The original emergency regulation was first posted in the [Feb 19, 2020 issue of the State Register](#), and this regulation is effective as of July 29, 2020.

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## Calendar

Monday, August 3,  
2020

**1 of 2** Joint Legislative Hearings - Residential Health Care Facilities and COVID-19: These hearings will review New York State’s rate of infection and mortality due to COVID-19 in residential health care facilities.

Monday, August 10,  
2020

**2 of 2** Joint Legislative Hearings on Residential Health Care Facilities and COVID-19: These hearings will review New York State's rate of infection and mortality due to COVID-19 in residential health care facilities.

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### **QUICK LINKS**

**[NYS Department of Health](#)** --- **[NYS DOH –Meetings, Hearings & Special Events](#)** --- **[Medicaid Redesign Team](#)** --- **[Senate Health Committee Website](#)** --- **[Assembly Health Committee Updates](#)** --- **[NYS Division of Budget](#)**

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