

## CLIENT ALERT: Executive Order 202.30

### FEATURED ATTORNEY



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### Updated Nursing Home Guidelines

On May 10, 2020, New York Governor Andrew Cuomo issued **Executive Order 202.30**. This executive order outlines new guidelines that nursing homes and hospitals must follow during the COVID-19 pandemic.

Here are the new safety measures nursing homes must follow:

- Personal protective equipment is required for staff when interacting with residents who are suspected to have coronavirus or have tested positive.
- Face masks are required when staff interacts with all residents.
- All personnel, including all employees, contract staff, medical staff, operators and administrators must be checked for coronavirus symptoms, including temperature checks every 12 hours and diagnostic tests two (2) times per week.
- Any positive test result shall be reported to the Department of Health by 5:00 p.m. of the day following receipt of such test result, in a manner determined by the Commissioner of Health.
- Facilities must notify all residents and family members within 24 hours of a positive coronavirus test or death.
- The facilities must separate residents and staff in the event of an outbreak.
- Facilities must transfer any residents that they cannot take care of.
- If the facility has a Covid positive person and they can't treat a Covid positive person, they must transfer the person or call the state Department of Health and the state Department of Health will transfer that person.

- Hospitals will also not be allowed to discharge patients to nursing homes unless they test negative for Covid-19.

No later than May 15, 2020, both the operator and the administrator of all nursing homes and adult care facilities must provide to the Department of Health a certification of compliance with this Executive Order and directives of the Commissioner of Health, and all other applicable Executive Orders and directives of the Commissioner of Health.

The Commissioner of Health is authorized to suspend or revoke the operating certificate of any nursing home or adult care facility if it is determined that such facility has not complied with this Executive Order, or any regulations or directives issued by the Commissioner of Health.

If the facility is determined to not be in compliance, notwithstanding any law to the contrary, the Commissioner may appoint a receiver to continue the operations on 24 hours' notice to the current operator, in order to preserve the life, health and safety of the people of the State of New York. Any false statement in the attestation shall be punishable under the provisions of Penal Code 210.45.

Any nursing home or adult care facility which does not comply with this Executive Order shall be subject to a penalty for non-compliance of \$2,000 per violation per day, as if it were a violation of section 12 of the public health law, and any subsequent violation shall be punishable as if it is a violation of section 12-b of the public health law, with a penalty of \$10,000 per violation per day.

Any article 28 general hospital shall not discharge a patient to a nursing home, unless the nursing home operator or administrator has first certified that it is able to properly care for such patient. Provided further, that any article 28 general hospital shall not discharge a patient to a nursing home, without first performing a diagnostic test for COVID-19 and obtaining a negative result.

The [healthcare attorneys](#) at Abrams Fensterman, LLP are committed to providing you with the most current and accurate information and guidance during this COVID-19 pandemic. Should you have questions, feel free to contact [Patrick Formato, Esq.](#), [Barbara Stegun Phair, Esq.](#), [Frank A. Mazzagatti, Esq.](#), or any other attorney in our health law practice group.